Supreme Court, U. S.
FILED
JAN 15 1976
MICHAEL RODAK, JR., CLERK

In the Supreme Court of the United States

OCTOBER TERM, 1975

No. 74-1318

DREW MUNICIPAL SEPARATE SCHOOL DISTRICT, ET AL.,
Petitioners,

vs.

KATIE MAE ANDREWS, ET AL.,
Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

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Petition for Certiorari Was Timely Filed
Certiorari Granted October 6, 1975

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APPENDIX

DOCKET ENTRIES

2-20-73 Filed Complaint - Issued Summons.
Mailed AO 78 Card to Courtroom Deputy.
Mailed J.S. 5 cards to Oxford, along with index cards.
Mailed notice of assignment of case to Judge Smith.

2-26-73 Filed Marshal's return executed 2-20-73 on L. L. Vance, Boyle, Miss.
Filed Marshal's return executed 2-20-73 on G. F. Petty, Drew, Miss.
Filed Marshal's return executed 2-20-73 on G. W. Moody, Drew, Miss.

Filed Marshal's return executed 2-20-73 on T. E. Parker, Drew, Miss.
Filed Marshal's return executed 2-20-73 on J. H. McCaskill, Drew, Miss.
(Service on his atty. Champ Terney)
Filed Marshal's return executed 2-20-73 on W. J. Dubard, Drew, Miss.
(Service on his atty. Champ Terney)
Filed Marshal's return executed 2-20-73 on Drew Municipal Separate School District, Drew, Miss. (Service on L. L. Vance).

2-26-73 Received letter from Luke Dove to attys. of record setting hearing in Clarksdale, Miss on 3-7-73 at 10 A.M.

2-26-73 Filed Notice of Motion; filed by Johnnie E. Walls, Jr.

3- 2-73 Mailed Notice of Hearing resetting case for 3-19-73 in Greenville at 10 A.M.

3- 7-73 Received copy of letter from Law Clerk to attys. of record setting hearing in Oxford, Miss. on March 16, 1973 at 9 A.M.

3-13-73 Filed Plaintiffs' Corrected Memorandum Of Law In Support Of The Motion For Preliminary Injunction; filed by Charles Victor McTeer. North Miss. Rural Legal Services reports that they mailed a copy of same to Judge Smith.

3-20-73 Filed Civil Minutes - General: Matter taken under advisement as to pre. inj. Center for Constitutional Rights allowed to participate in case; counsel to submit briefs.

3-20-73 Received and entered Order Granting Leave For Center For Constitutional Rights To Participate As Amicus Curiae, signed by Judge Keady on

3-20-73. COB 13, page 23. Mailed notice of order - notice also showing reassignment of case to Judge Keady.

4- 2-73 Filed Motion Of The United States Equal Employment Opportunity Commission To File Brief As *Amicus Curiae*; filed by Equal Employment Opportunity Commission. Copy mailed to Judge Keady.

4- 4-73 Received and entered Order signed by Judge Keady on April 3, 1973 granting motion of Equal Employment Opportunity Commission to file brief as amicus curiae. COB 13, page 43.

4- 5-73 Filed transcript of Testimony Of George Ferris Pettey taken 3-16-73 before Judge Keady.

4-10-73 Received original and one copy of Plaintiff's Rejoinder Memorandum Of Law In Support Of The Motion For Preliminary Injunction. Mailed both copies to Luke Dove in Corinth.

4-12-73 Filed Answer of defendants; filed by Champ T. Terney.

4-12-73 Filed transcript of proceedings had on March 16, 1973 in Greenville, Miss. before Judge Keady.

4-12-73 Filed transcript of proceedings had on March 20, 1973 before Judge Keady in Greenville, Miss.

4-17-73 Received Brief Of The United States Equal Employment Opportunity Commission As Amicus Curiae In Support Of Plaintiffs' Motion For Preliminary Injunction. Mailed same to Ray Mitchell.

5-11-73 Received and entered Order signed by Judge Keady on 5-10-73 setting this cause down for

hearing on Thursday, May 31, 1973 at 9 A.M. COB 13, pages 130-131. Mailed notice of order to attys. of record.

5-18-73 Filed Notice To Take Deposition of Dr. Ernest van den Haag on 5-25-73 in New York.

5-23-73 Filed Notice To Take Deposition of Dr. Kenneth Clark on 5-29-73 in New York.

5-23-73 Filed Notice To Take Deposition of Dr. Edmund Gordon and Dr. Ronald Samuda on 5-29-73 in New York.

5-30-73 Filed Notice Of Motion with Motion For Leave To Amend Complaint. Gave copy of both notice and motion to Judge Keady.

5-31-73 Filed Motion For a Permanent Injunction. Copy to Judge.

5-31-73 Filed copy of letter from A. F. Summer, Atty. Gen. to Members Of Clergy In Mississippi.

5-31-73 Filed Civil Minutes - General: Held in Greenville, Miss. on 5-31-73. Case taken under advisement after evidentiary hearing.

6- 1-73 Filed Deposition of Ernest van den Haag, taken in New York on 5-16-73.

6- 5-73 Filed Deposition of Edmund Gordon, taken in New York on 5-29-73 at 2:30 P.M.

6- 5-73 Filed Deposition of Dr. Kenneth B. Clark, taken in New York on 5-29-73 at 10:30 A.M.

6- 6-73 Filed Curriculum Vitae; filed by Johnnie E. Walls, Jr.
Filed Kenneth B. Clark: A Bibliography; filed by Johnnie E. Walls, Jr.
Filed Kenneth B. Clark: A Bibliography Additions—July, 1971, filed by Walls.

Filed "Dr. Kenneth B. Clark"; filed by Johnnie E. Walls.
(all above papers placed in unsealed envelope in file).

7- 3-73 Received Memorandum Opinion signed by Judge Keady on 7-3-73.

7- 3-73 Received and entered Judgment signed by Judge Keady on 7-3-73 reinstating Ms. Lestine Rogers as teacher's aide and granting compensation of $250.00 a month for the 1972-73 school year. Ms. Katie Mae Andrews is awarded damages at the rate of $450 per month for the second semester of the 1972-73 school year. This Judgment has been entered in COB 13, pages 226-228. Mailed notice of judgment.

J.S. 6

7- 9-73 Received letter from Judge requesting substitution of page 14 in the original Memorandum Opinion dated July 3, 1973. Substituted same.

7-11-73 Filed Notice Of Appeal (called Mr. Terney's office for bond and filing fee). Mailed copy of Notice of Appeal, with copy of docket sheet entries, to Court of Appeals. Mailed copy of Notice to attys. of record. Gave one copy of Notice to Court Reporter and one copy to Law Clerk.

7-13-73 Filed Bond For costs ($250.00), with General Power Of Attorney attached.

7-13-73 Issued Receipt #23369 to Hon. Heber Ladner, Jr., filing fee for Notice of Appeal.

8- 2-73 Filed Notice of Cross Appeal; filed by Charles V. McTeer. Bond is being forwarded from

North Miss. Legal Services. Mailed copy to Ct. of Appeals, to attys., gave copy to Judge and to Court Reporter.

8- 3-73 Issued R #23404 to North Miss. Rural Legal Services for $250.00 cash bond for appeal. Returned their $5.00 check dated 8-2-73 for filing fee and this fee was paid 8-2-73 by Charles McTeer.

8-10-73 Filed Notice of Motion and Motion For Stay Without Supersedeas Bond. Gave copy of both notice and motion to Judge Keady.

8-13-73 Mailed notice of Hearing set for August 17, 1973 at 3 P.M. in Greenville.

8-20-73 Filed Civil Minute Order; held 8-17-73 in Greenville (25 Min.) Deft. motion for stay without supersedeas - granted but deft must give $25,000.00 bond and pay all costs of court.

8-21-73 Received and entered Order signed by Judge Keady on August 17, 1973 concerning motion for stay of judgment without posting of supersedeas bond. COB 14, page 26. Mailed notice of Order to attys. of record.

8-30-73 Filed Motion To Pledge Securities For Supersedeas Bond.

8-31-73 Received and entered Order signed by Judge Keady on 8-31-73 concerning deft's motion for authority to pledge funds totaling $25,000.00. COB 14, pg. 55. Mailed notice of order to attys. of record.

9- 4-73 Filed transcript of proceedings had in Greenville, Miss. on 5-31-73 before Chief Judge William C. Keady.

9- 7-73 Filed Supersedeas Bond. Copy to Judge Keady by Mr. Terney.

9-11-73 Mailed original record, transcript and exhibits to Court of Appeals, with copy of transmittal letter to all attorneys of record. Certified No. 357545.

10- 2-73 Received and entered Order denying pltfs' motion for an award of atty's fees, signed by Judge Keady on 10-2-73. COB 14, pg. 202. Mailed notice of order to attys.

10-11-73 Issued Fieri Facias by request of Mr. Falton O. Mason, Jr., Asst. U.S. Atty.

12-17-73 Filed Motion To Substitute Security Of Supersedeas Bond. Copy of motion given to Judge Keady.

12-17-73 Received and entered Order signed by Judge Keady on 12-17-73 granting deft's motion to substitute security on supersedeas bond. COB 15, pg. 1-2. Mailed notice of order to attys. of record. Mailed copy of order to Clerk's office in Oxford for check to be issued.

1- 2-75 Rec'd and entered respecting substitution of security on supersedeas bond, signed by Judge Keady on 1-2-75. COB 17, pg. 3-4. Mailed notice of order to attys. Mailed copy of order to Clerk's office in Oxford.

1- 2-75 Rec'd and entered Notice of Motion and Motion To Substitute Security Of Supersedeas Bond. Copies to Judge Keady.

1- 7-75 Rec'd from Champ Terney and placed in vault (until Chief Dep. talks with Ct. of Appeals) safekeeping receipt #3201 to be substituted for No. 2771.

1-10-75 Filed copy of letter from Chief Deputy Clerk to Court of Appeals respecting safekeeping receipts.

1-23-75 Mailed to Champ Terney by certified mail Safekeeping Receipt No. 2771 as directed in Order of 1-2-75. Safekeeping Receipt No. 3201 still in vault.

3-19-75 Rec'd Original Record back from Court of Appeals.

3-19-75 Filed certified copy of Judgment issued as Mandate 3-14-75 affirming judgment of District Court. Filed copy of Court's opinion. Mailed copy of judgment and opinion to Judge Keady and one copy to each attorney.

3-19-75 Filed Copy of Bill of Costs.

10-10-75 Rec'd and entered Order granting permission for defts to remove from court appeal transcript from Fifth Circuit, signed by Judge Keady 10-10-75. COB 18, pg. 260.

IN THE
UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF MISSISSIPPI GREENVILLE DIVISION

CIVIL ACTION NO. GC-73-20-S

KATIE MAE ANDREWS, and LESTINE ROGERS,
Plaintiffs,
v.
DREW MUNICIPAL SEPARATE SCHOOL DISTRICT BOARD OF TRUSTEES, G.F. PETTY, Superintendent; L. L. VANCE, President; J. H. McCASKILL, Secretary; G. W. MOODY, W. J. DUBARD and T. E. PARKER,
Defendants.

COMPLAINT

(Filed February 20, 1973)

1. This is an action for declaratory and injunctive relief to redress the deprivation of rights and privileges and immunities of the plaintiffs guaranteed by the 42 U. S. C. 1981, 1983 et seq., Title VI of the Civil Rights Act of 1964 42 U. S. C. Section 2000d et seq., the Fifth and Fourteenth Amendments to the United States Constitution. Plaintiffs further ask for declaratory relief under 28 U. S. C. 2201, 2202.

2. This Court has jurisdiction of this cause pursuant to 28 U. S. C. Section 1343.

3. This cause of action rests upon 42 U. S. C. Sections 1981, 1983 et seq., Title VI of the Civil Rights Act of 1964 Section 42 U. S. C., 2000d et seq., the Fifth and Fourteenth Amendments to the United States Constitution.

PARTIES

4. Plaintiff Katie Mae Andrews is a black female certified to teach in the public schools of the State of Mississippi. Plaintiff is a citizen of the United States and a resident of the State of Mississippi, plaintiff is unmarried and has one child.

5. Plaintiff Lestine Rogers was formerly employed by the Drew Municipal Separate School District as a teachers' aide from September, 1971 to May, 1972. Plaintiff is a citizen of the United States and a resident of the State of Mississippi. Plaintiff is unmarried and has one child.

6. The defendants are the Drew Municipal Separate School District, Superintendent and Board of Trustees thereof created through the laws of the State of Mississippi. Upon information and belief, all defendants are residents of the United States and of Sunflower County, Mississippi.

FACTS

7. In December, 1972 plaintiff Andrews, applied for both teaching and teacher's aide positions in the Drew Municipal Separate School District. She was instructed by an agent of the defendants a Mrs. McCorkle that she would be called before January 18, 1973 as to when and where she would report for employment. On January 15, plaintiff went to defendants agent again and was instructed that she could not apply because she was unmarried and the mother of a child. Defendant's agent McCorkle stated that this practice was a rule of the Drew Municipal Separate School District dictated by Mr. G. F. Petty, Superintendent.

8. Plaintiff Rogers was employed by defendant school district during the school year September, 1971 to June,

1972. She began her employment on September, 1971. In May, of the school year 1971-1972 plaintiff was discharged from her employment by defendant's agent, Mrs. Corkle. Plaintiff was told she was discharged because she was unmarried and had one child.

9. On information and belief the Drew Municipal Separate School District receives federal aid and assistance in the administration and execution of its educational program.

10. Plaintiffs Andrews and Rogers were respectively refused employment and discharged due to their race, sex and single parent status, by defendants.

VIOLATIONS OF LAW

11. Defendants refusal to employ plaintiff Andrews and termination of plaintiff Rogers delegates plaintiffs into an unconstitutionally created classification based upon their race, sex and unmarried parent status in violation of 42 U. S. C., 1981, 1983 et seq., and the Civil Rights Act of 1964, Section 2000d, the Fifth and Fourteenth Amendment.

12. Defendants refused to hire plaintiff Andrews as a school teacher because of her race, sex and single parent status in violation of 42 U. S. C. 1981, 1983 et seq. Section 2000d the Civil Rights Act of 1964 the Fifth and Fourteenth Amendments.

13. Defendants discharged plaintiffs Rogers from her teacher's aide position because of her race, sex, and single parent status in violation of 42 U. S. C. 1981 et seq. Section 2000d of the Civil Rights Act of 1964, the Fifth and Fourteenth Amendments.

WHEREFORE, Plaintiffs pray that this Court grant them relief as follows:

a. Declaring that the racially discriminatory practices and policies outlined above in the complaint are unlawful.

b. Enjoin the defendants, their officers, agents, employees, successors and all other persons acting in concert with them under their authority from continuing to follow all such practices and policies declared unlawful.

c. Awarding plaintiffs damages in the form of back pay they would have received had they not been discriminated against and refused employment because of their race, sex and single parent (unmarried) status.

d. Reinstate Plaintiff Rogers to her position as teacher's aide;

e. Order that Plaintiff Andrews be hired to a teaching position within the Drew Municipal Separate School District;

f. Awarding Plaintiffs such other further relief as may be just and proper, including their costs and reasonable attorney's fees.

Respectively submitted,

/s/ Charles Victor McTeer
Drawer H
Mound Bayou, Mississippi 38762
Catherine P. Mitchell
Box 589
Mound Bayou, Mississippi 38762
Johnnie E. Walls, Jr.
Willie L. Bailey
Box 1909
Greenwood, Mississippi 38930
Lewis Myers
108 1/2 South Lamar
Oxford, Mississippi 38655
Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF MISSISSIPPI GREENVILLE DIVISION

(Title Omitted in Printing)

ANSWER

(Filed April 12, 1973)

Come now the Drew Municipal Separate School District, G. F. Pettey, Superintendent, L. L. Vance, President, J. H. McCaskill, Secretary, W. J. DuBard, G. W. Moody and T. E. Parker, Defendants herein, by and through their attorneys of record, and file this their answer to the Complaint filed herein against them, and by way of answer state unto the Court as follows:

I

The Defendants deny the allegations of Paragraph 1 of the Complaint.

II

The Defendants deny the allegations of Paragraph 2 of the Complaint.

III

The Defendants deny the allegations of Paragraph 3 of the Complaint.

IV

The Defendants admit the allegations of Paragraph 4 of the Complaint, but are without knowledge as to whether or not Katie Mae Andrews is certified to teach in the public schools of the State of Mississippi and, therefore, denies the same.

V

The Defendants admit the allegations of Paragraph 5 of the Complaint.

VI

The Defendants admit the allegations of Paragraph 6 of the Complaint.

VII

The Defendants deny the allegations of Paragraph 7 of the Complaint, except they do admit that in December of 1972, Plaintiff Andrews applied for a teachers aide position in the Drew Municipal Separate School District.

VIII

The Defendants admit the allegations of Paragraph 8 of the Complaint insofar as they state that Plaintiff Rogers was employed by the Defendant school district during the school year September, 1971 to June, 1972, and show that said Plaintiff was allowed to complete the full 1971-72 school year of employment, and further that said Plaintiff was advised that she would not be employed for the 1972-73 school year.

IX

The Defendants admit the allegations of Paragraph 9 of the Complaint.

X

The Defendants deny the allegations of Paragraph 10 of the Complaint.

XI

The Defendants deny the allegations of Paragraph 11 of the Complaint.

XII

The Defendants deny the allegations of Paragraph 12 of the Complaint.

XIII

The Defendants deny the allegations of Paragraph 13 of the Complaint.

AFFIRMATIVE DEFENSES

XIV

The Court lacks jurisdiction to hear the cause.

XV

These Defendants state affirmatively that the regulation in the Defendant school district presently enforced by the Defendant Pettey is not discriminatory against any person because of their race or sex. The policy excludes both men and women who are unwed parents and is applied to blacks and whites alike. Said rule as stated and enforced is not arbitrarily unreasonable or capricious and that it is, in fact, necessary for the proper administration and discipline of the Drew Public Schools. The Defendants further submit that the regulation bars only upon the Plaintiffs open and notorious display of a status which is within the province of the school district to regulate in determining who may teach.

XVI

The Defendants submit to the Court that the filing of this law suit by Plaintiffs is frivolous and without merit, and these Defendants are entitled to a reasonable attorney fee for the defense of this action and for all costs incurred herein to be recovered from the Plaintiffs.

WHEREFORE, the Defendants having fully answered the allegations against them in the Complaint filed herein, and showing unto the Court certain affirmative matter, ask the Court that the Complaint filed herein against them be dismissed, with prejudice, and the relief therein requested be denied, with all costs taxed to Plaintiffs together with a reasonable attorney fee awarded these Defendants from Plaintiffs.

Respectfully submitted,

Drew Municipal Separate School District, et al

By /s/ Champ Terney
Attorney for Defendants

Of Counsel:
Lyon, Crosthwait & Terney
Attorneys at Law
100 Court Street
Indianola, Mississippi

DEFENDANTS' EXHIBIT 1

DREW PUBLIC SCHOOLS
DREW, MISSISSIPPI
TITLE I, ESEA

TEACHER-AIDE APPLICATION

single with a child 3 mos

Name: Andrews (Last) Katie (First) Mae (Middle) Age: 22

Mailing Address: Post Office Box 22 (City) Drew (State) Mississippi

Telephone No: None 745-3238 Married: ___ Single: ✓ Other: ___ (Specify)

Has a child

No. of Children: 0 Age of Children: — Health: Good

Highest Level of Education Attained: (check one)

✓ High School Graduate
___ 1 year College
___ 2 year College
___ 3 year College
✓ College Graduate

High School Attended: Hunter High School Date of Graduation: 5/67

College Attended: Mississippi Valley State College Last Year Attended: 9/72

Last Employer: Baxter's Laboratory Cleveland, Miss.

Date of Last Employment: ___

Signature of Applicant: Katie Mae Andrews

Date of Application: 12/12/72

BEST COPY AVAILABLE

This applicant would have been hired in January 1973 if she had not received a letter from Mrs Clara Robinson and a Miss at Drew Elementary that she had a child. The applicant stated on her application that she was single and had no children. When she called by phone in January I informed her of the above fact and have had no contact with the applicant since then.

18

Winter 2

PUBLIC SCHOOLS
MISSISSIPPI
TITLE I, ESEA

TEACHER-AIDE APPLICATION

Name: Royer Lottie ____ Age: 20
Last First Middle

Mailing Address: General Delivery

Telephone: 745-2866 Married: ____ Single: ✓ No. of Children: 1 2

Health: Good Age of children: 9 mos.

Highest Level of Education Attained: (check one)

✓ High School Graduate ____ 3 year College

____ 1 year College ____ College Graduate

____ 2 year College

High School Attended: Drew High School Date of Graduation: 5-25-71

College Attended: ____ Last year Attended: ____

Last Employer: ____

Date of Last Employment: ____

Signature of Applicant: Lottie Royer

19

DEFENDANTS' EXHIBIT 2

PLAINTIFFS' EXHIBIT 3

MISSISSIPPI
STATE BOARD OF HEALTH
JACKSON, MISSISSIPPI 39205

HUGH S. COTTRELL, M.D., M.P.H.
STATE HEALTH OFFICER

March 16, 1973

Mr. Victor McTeen
Box 594
Mound Bayou, Mississippi 39762

Dear Mr. McTeen:

As requested, we are sending you information on illegitimate births in Mississippi for the five most recent years for which it is available. The data on the enclosed tables were compiled by the Statistical Services Unit of the State Board of Health from information recorded on live birth certificates filed with the Vital Records Registration Unit of the State Board of Health.

Sincerely yours,

Catherine P. Klipple

(Mrs.) Catherine P. Klipple
Supervisor
Statistical Services Unit

CPK:h
enclosures

TOTAL LIVE BIRTHS AND NUMBER AND PERCENT ILLEGITIMATE
BY COUNTY OF RESIDENCE AND RACE
MISSISSIPPI, 1971

County	Total			White			Nonwhite		
	Total Live Births	Illegitimate Live Births		Total Live Births	Illegitimate Live Births		Total Live Births	Illegitimate Live Births	
		Number	Percent		Number	Percent		Number	Percent
STATE	48,601	9,740	20.0	25,199	807	3.2	23,402	8,933	38.2
Adams	861	260	30.2	366	28	7.6	495	23.2	46.9
Alcorn	472	56	11.9	389	22	5.6	83	34	41.0
Amite	236	45	19.1	79	1	1.3	157	44	28.0
Attala	373	77	20.6	172	5	2.9	201	72	35.8
Benton	119	13	10.9	77	2	2.6	42	11	26.2
Bolivar	1,467	602	41.0	346	9	2.6	1,121	593	52.9
Calhoun	278	47	16.9	159	2	1.2	119	45	37.8
Carroll	143	30	21.0	57	0	-	86	30	34.9
Chickasaw	371	55	14.8	212	6	2.8	159	49	30.8
Choctaw	127	26	20.5	71	2	2.8	56	24	42.8
Claiborne	197	68	34.5	35	2	5.7	162	66	40.7
Clarke	296	44	14.9	160	4	2.5	136	40	29.4
Clay	415	89	21.4	163	8	4.9	252	81	32.1
Coahoma	920	333	36.2	222	8	3.6	698	325	46.6
Copiah	512	127	24.8	189	5	2.6	323	122	37.8
Covington	306	49	16.0	159	4	2.5	147	45	30.6
DeSoto	855	149	17.4	538	15	2.8	317	134	42.3
Forrest	1,181	182	15.4	750	30	4.0	431	152	35.3
Franklin	114	23	20.2	43	0	-	71	23	32.4
George	296	16	5.4	264	8	3.0	32	8	25.0
Greene	208	35	16.8	136	5	3.7	72	30	41.7
Grenada	428	81	18.9	180	5	2.8	248	76	30.6
Hancock	334	22	6.6	284	8	2.8	50	14	28.0
Harrison	3,236	337	10.4	2,472	107	4.3	764	230	30.1
Hinds	4,396	920	20.9	2,108	79	3.7	2,288	841	36.8
Holmes	469	149	31.8	87	2	2.3	382	147	38.5
Humphreys	314	106	33.8	67	3	4.5	247	103	41.7
Issaquena	45	12	26.7	18	3	16.7	27	9	33.3
Itawamba	260	7	2.7	242	3	1.2	18	4	22.2
Jackson	2,153	162	7.5	1,675	41	2.4	478	121	25.3
Jasper	327	61	18.6	105	2	1.9	222	59	26.6
Jefferson	177	64	36.2	21	1	4.8	156	63	40.4
Jeff Davis	289	63	21.8	103	6	5.8	186	57	30.6
Jones	1,062	148	13.9	718	23	3.2	344	125	36.3
Kemper	194	43	22.2	41	2	4.9	153	41	26.8
Lafayette	481	61	12.7	301	8	2.6	180	53	29.4
Lamar	328	24	7.3	270	3	1.1	58	21	36.2
Lauderdale	1,666	293	17.6	962	35	3.6	704	258	36.6
Lawrence	252	47	18.6	130	5	3.8	122	42	34.4
Leake	339	48	14.2	158	4	2.5	181	44	24.3
Lee	995	110	11.0	711	24	3.4	284	86	30.3
Leflore	1,017	319	31.4	283	11	3.9	734	308	42.0

Page 4
Total Live Births and Number and Percent Illegitimate
By County of Residence and Race - Mississippi - 1971

County	Total			White			Nonwhite		
	Total Live Births	Illegitimate Live Births		Total Live Births	Illegitimate Live Births		Total Live Births	Illegitimate Live Births	
		Number	Percent		Number	Percent		Number	Percent
Lincoln	606	89	14.7	353	9	2.5	253	80	31.6
Lowndes	1,205	244	20.2	669	12	1.8	536	232	43.3
Madison	807	235	29.1	228	8	3.5	579	227	39.2
Marion	460	56	12.2	270	8	3.0	190	48	25.3
Marshall	635	183	28.8	188	3	1.6	447	180	40.3
Monroe	746	103	13.8	472	7	1.5	274	96	35.0
Montgomery	250	60	24.0	100	1	1.0	150	59	39.3
Neshoba	450	66	14.7	288	12	4.5	162	54	29.7
Newton	360	49	13.6	203	7	3.4	157	42	26.8
Noxubee	344	111	32.3	66	1	1.5	278	110	39.6
Oktibbeha	600	113	18.8	308	5	1.6	292	108	37.0
Panola	615	158	25.7	222	7	3.2	393	151	38.4
Pearl River	599	61	10.2	461	13	2.8	138	48	34.8
Perry	193	28	14.5	131	3	2.3	62	25	40.3
Pike	650	128	19.7	281	10	3.6	369	118	32.0
Pontotoc	295	23	7.8	242	8	3.3	53	15	28.3
Prentiss	399	36	9.0	342	16	4.7	57	20	35.1
Quitman	419	115	27.4	120	5	4.2	299	110	36.8
Rankin	868	84	9.7	628	11	1.8	240	73	30.4
Scott	506	81	16.0	261	8	3.1	245	73	29.8
Sharkey	242	87	36.0	46	3	6.5	196	84	42.8
Simpson	405	52	12.8	216	8	3.7	189	44	23.3
Smith	286	32	11.2	180	4	2.2	106	28	26.4
Stone	197	33	16.8	126	2	1.6	71	31	43.7
Sunflower	920	324	35.2	211	8	3.8	709	316	44.6
Tallahatchie	454	180	39.6	129	5	3.9	325	175	53.8
Tate	372	111	29.8	145	4	2.8	227	107	47.1
Tippah	328	22	6.7	258	4	1.6	70	18	25.7
Tishomingo	215	9	4.2	201	2	1.0	14	7	50.0
Tunica	314	117	37.3	56	2	3.6	258	115	44.6
Union	335	29	8.6	266	4	1.5	69	25	36.2
Walthall	254	41	16.1	112	1	0.9	142	40	28.2
Warren	999	228	22.8	505	17	3.4	494	211	42.7
Washington	1,861	602	32.3	601	23	3.8	1,260	579	46.0
Wayne	360	52	14.4	208	5	2.4	152	47	30.9
Webster	158	33	20.9	94	4	4.2	64	29	45.3
Wilkinson	225	68	30.2	54	1	1.8	171	67	39.2
Winston	385	74	19.2	161	5	3.1	224	69	30.8
Yalobusha	231	51	22.1	100	2	2.0	131	49	37.4
Yazoo	544	169	31.1	194	8	4.1	350	161	46.0

ILLEGITIMATE LIVE BIRTHS BY COUNTY OF RESIDENCE AND RACE
MISSISSIPPI, 1970

County	Total			White			Nonwhite		
	Total Live Births	Illegitimate Live Births		Total Live Births	Illegitimate Live Births		Total Live Births	Illegitimate Live Births	
		Number	Percent		Number	Percent		Number	Percent
STATE	48,141	9,327	19.4	24,893	848	3.4	23,248	8,479	36.5
Adams	866	266	30.7	365	46	12.6	501	220	43.9
Alcorn	500	49	9.8	424	13	3.1	76	36	47.4
Amite	250	50	20.0	84	2	2.4	166	48	28.9
Attala	386	66	17.1	169	4	2.4	217	62	28.6
Benton	126	17	13.5	59	0	-	67	17	25.4
Bolivar	1,355	549	40.5	291	9	3.1	1,064	540	50.8
Calhoun	264	35	13.2	157	3	1.9	107	32	29.9
Carroll	152	33	21.7	54	1	1.8	98	32	32.6
Chickasaw	348	57	16.4	167	5	3.0	181	52	28.7
Choctaw	128	19	14.8	76	4	5.3	52	15	28.8
Claiborne	209	65	31.1	49	1	2.0	160	64	40.0
Clarke	271	45	16.6	134	4	3.0	137	41	29.9
Clay	386	78	20.2	142	6	4.2	244	72	29.5
Coahoma	949	337	35.5	232	11	4.7	717	326	45.5
Copiah	483	129	26.7	166	11	6.6	317	118	37.2
Covington	288	39	13.5	163	4	2.4	125	35	28.0
DeSoto	819	133	16.2	512	15	2.9	307	118	38.4
Forrest	1,217	195	16.0	797	33	4.1	420	162	38.6
Franklin	153	35	22.9	66	1	1.5	87	34	39.1
George	290	15	5.2	250	6	2.4	40	9	22.5
Greene	195	28	14.4	133	5	3.8	62	23	37.1
Grenada	448	94	21.0	202	8	4.0	246	86	35.0
Hancock	342	29	8.5	287	10	3.5	55	19	34.5
Harrison	3,223	302	9.4	2,491	104	4.2	732	198	27.0
Hinds	4,683	960	20.5	2,286	102	4.5	2,397	858	35.8
Holmes	555	181	32.6	94	5	5.3	461	176	38.2
Humphreys	332	117	35.2	85	4	4.7	247	113	45.7
Issaquena	56	14	25.0	17	0	-	39	14	35.9
Itawamba	279	10	3.6	260	4	1.5	19	6	31.6
Jackson	2,128	179	8.4	1,685	52	3.1	443	127	28.7
Jasper	335	48	14.3	133	3	2.2	202	45	22.3
Jefferson	194	65	33.5	20	0	-	174	65	37.4
Jeff Davis	276	57	20.6	99	5	5.0	177	52	29.4
Jones	999	138	13.8	671	19	2.8	328	119	36.3
Kemper	177	32	18.1	41	0	-	136	32	23.5
Lafayette	470	70	14.9	279	6	2.2	191	64	33.5

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Illegitimate Live Births by County of Residence and Race
Mississippi, 1970

County	Total			White			Nonwhite		
	Total Live Births	Illegitimate Live Births		Total Live Births	Illegitimate Live Births		Total Live Births	Illegitimate Live Births	
		Number	Percent		Number	Percent		Number	Percent
Lamar	308	31	10.1	246	10	4.1	62	21	33.9
Lauderdale	1,552	278	17.9	879	30	3.4	673	248	36.8
Lawrence	244	32	13.1	139	5	3.6	105	27	25.7
Leake	324	45	13.9	154	2	1.3	170	43	25.3
Lee	966	114	11.8	697	23	3.3	269	91	33.8
Leflore	1,068	305	28.6	310	8	2.6	758	297	39.2
Lincoln	587	95	16.2	347	18	5.2	240	77	32.1
Lowndes	1,067	210	19.7	604	15	2.5	463	195	42.1
Madison	799	247	30.9	196	7	3.6	603	240	39.8
Marion	418	75	17.9	224	9	4.0	194	66	34.0
Marshall	591	158	26.7	161	8	5.0	430	150	34.9
Monroe	681	89	13.1	408	11	2.7	273	78	28.6
Montgomery	255	62	24.3	75	0	-	180	62	34.4
Neshoba	412	48	11.6	234	5	2.1	178	43	24.2
Newton	382	59	15.4	198	6	3.0	184	53	28.8
Noxubee	326	92	28.2	83	4	4.8	243	88	36.2
Oktibbeha	572	83	14.5	312	1	0.3	260	82	31.5
Panola	598	152	25.4	214	10	4.7	384	142	37.0
Pearl River	575	51	8.9	451	11	2.4	124	40	32.2
Perry	185	22	11.9	126	2	1.6	59	20	33.9
Pike	653	118	18.1	297	11	3.7	356	107	30.0
Pontotoc	261	25	9.6	207	6	2.9	54	19	35.2
Prentiss	349	23	6.6	293	6	2.0	56	17	30.4
Quitman	405	116	28.6	124	3	2.4	281	113	40.2
Rankin	901	105	11.6	646	12	1.8	255	93	36.5
Scott	465	62	13.3	267	10	3.7	198	52	26.3
Sharkey	240	72	30.0	61	3	4.9	179	69	38.5
Simpson	441	55	12.5	234	5	2.1	207	50	24.2
Smith	276	37	13.4	166	7	4.2	110	30	27.3
Stone	173	21	12.1	115	3	2.6	58	18	31.0
Sunflower	913	298	32.6	197	5	2.5	716	293	40.9
Tallahatchie	469	148	31.6	103	2	1.9	366	146	39.9
Tate	398	114	28.6	161	6	3.7	237	108	45.6
Tippah	272	12	4.4	223	1	0.4	49	11	22.4
Tishomingo	262	8	3.0	252	4	1.6	10	4	40.0
Tunica	329	103	31.3	58	4	6.9	271	99	36.5
Union	315	40	12.7	227	8	3.5	88	32	36.4
Walthall	237	33	13.9	99	1	1.0	138	32	23.2
Warren	1,034	201	19.4	547	13	2.4	487	188	38.6
Washington	1,835	564	30.7	614	20	3.2	1,221	544	44.6
Wayne	371	49	13.2	222	4	1.8	149	45	30.2
Webster	175	36	20.6	111	9	8.1	64	27	42.2
Wilkinson	225	60	26.7	48	1	2.1	177	59	33.3
Winston	327	60	18.3	139	4	2.9	188	56	29.8
Yalobusha	218	46	21.1	81	3	3.7	137	43	31.4
Yazoo	555	137	24.7	203	6	3.0	352	131	37.2

ILLEGITIMATE LIVE BIRTHS BY COUNTY OF RESIDENCE AND RACE
MISSISSIPPI, 1969

County	Total			White			Nonwhite		
	Total Live Births	Illegitimate Live Births		Total Live Births	Illegitimate Live Births		Total Live Births	Illegitimate Live Births	
		Number	Percent		Number	Percent		Number	Percent
STATE	47,120	8,741	18.6	24,025	740	3.1	23,095	8,001	34.6
Adams	890	278	31.2	393	37	9.4	497	241	48.5
Alcorn	431	30	7.0	365	11	3.0	66	19	28.8
Amite	275	57	20.7	87	6	6.9	188	51	27.1
Attala	394	57	14.5	178	6	3.4	216	51	23.6
Benton	132	20	15.2	64	1	1.6	68	19	27.9
Bolivar	1,370	516	37.7	339	14	4.1	1,031	502	48.7
Calhoun	276	33	12.0	170	3	1.8	106	30	28.3
Carroll	154	22	14.3	61	1	1.6	93	21	22.6
Chickasaw	358	57	15.9	171	7	4.1	187	50	26.7
Choctaw	157	30	19.1	75	3	4.0	82	27	32.9
Claiborne	202	54	26.7	37	1	2.7	165	53	32.1
Clarke	284	53	18.7	137	3	2.2	147	50	34.0
Clay	316	58	18.4	130	2	1.5	186	56	30.1
Coahoma	943	308	32.7	243	9	3.7	700	299	42.7
Copiah	478	123	25.7	148	7	4.7	330	116	35.2
Covington	276	39	14.1	160	7	4.4	116	32	27.6
DeSoto	781	150	19.2	429	16	3.7	352	134	38.1
Forest	1,169	171	14.6	778	23	3.0	391	148	37.8
Franklin	123	18	14.6	56	2	3.6	67	16	23.9
George	279	15	5.4	238	3	1.3	41	12	29.3
Greene	186	27	14.5	129	9	7.0	57	18	31.6
Grenada	446	91	20.4	187	6	3.2	259	85	32.8
Hancock	268	19	7.1	227	7	3.1	41	12	29.3
Harrison	3,171	281	8.9	2,484	96	3.9	687	185	26.9
Hinds	4,480	833	18.6	2,132	84	3.9	2,348	749	31.9
Holmes	512	146	28.5	104	4	3.8	408	142	34.8
Humphreys	371	134	36.1	83	3	3.6	288	131	45.5
Issaquena	56	12	21.4	18	0	-	38	12	31.6
Itawamba	244	9	3.7	224	5	2.2	20	4	20.0
Jackson	2,060	156	7.6	1,582	42	2.6	478	114	23.8
Jasper	330	46	13.9	124	3	2.4	206	43	20.9
Jefferson	160	58	36.2	21	1	4.8	139	57	41.0
Jeff Davis	292	54	18.5	112	2	1.8	180	52	28.9
Jones	990	131	13.2	659	17	2.6	331	114	34.4
Kemper	221	42	19.0	57	1	1.8	164	41	25.0
Lafayette	466	60	12.9	285	1	0.4	181	59	32.6

Illegitimate Live Births by County of Residence and Race
Mississippi, 1969

County	Total			White			Nonwhite		
	Total Live Births	Illegitimate Live Births		Total Live Births	Illegitimate Live Births		Total Live Births	Illegitimate Live Births	
		Number	Percent		Number	Percent		Number	Percent
Lamar	297	28	9.4	246	5	2.0	51	23	45.1
Lauderdale	1,525	241	15.8	859	22	2.6	666	219	32.9
Lawrence	200	24	12.0	114	3	2.6	86	21	24.4
Leake	304	36	11.8	154	2	1.3	150	34	22.7
Lee	897	85	9.5	658	17	2.6	239	68	28.4
Leflore	1,002	272	27.1	303	3	1.0	699	269	38.5
Lincoln	532	86	16.2	327	14	4.3	205	72	35.1
Lowndes	1,008	221	21.9	502	9	1.8	506	212	41.9
Madison	768	201	26.2	169	5	3.0	599	196	32.7
Marion	485	57	11.8	283	3	1.1	202	54	26.7
Marshall	555	157	28.3	142	1	0.7	413	156	37.8
Monroe	725	95	13.1	444	19	4.3	281	76	27.0
Montgomery	230	50	21.7	96	4	4.2	134	46	34.3
Neshoba	396	43	10.8	229	6	2.6	167	37	22.2
Newton	363	51	14.0	201	9	4.5	162	42	25.9
Noxubee	345	91	26.4	68	0	-	277	91	32.8
Oktibbeha	587	90	15.3	318	1	0.3	269	89	33.1
Panola	585	168	28.7	179	9	5.0	406	159	39.2
Pearl River	556	52	9.4	439	12	2.7	117	40	34.2
Perry	192	20	10.4	130	2	1.5	62	18	29.0
Pike	580	104	17.9	256	7	2.7	324	97	29.9
Pontotoc	290	29	10.0	215	5	2.3	75	24	32.0
Prentiss	329	25	7.6	279	5	1.8	50	20	40.0
Quitman	442	131	29.6	130	2	1.5	312	129	41.3
Rankin	802	88	11.0	564	17	3.0	238	71	29.8
Scott	461	59	12.8	244	4	1.6	217	55	25.3
Sharkey	229	77	33.6	43	2	4.6	186	75	40.3
Simpson	428	50	11.7	224	5	2.2	204	45	22.0
Smith	257	38	14.8	152	6	3.9	105	32	30.5
Stone	165	25	15.2	90	1	1.1	75	24	32.0
Sunflower	954	297	31.1	208	6	2.9	746	291	39.0
Tallahatchie	503	157	31.2	99	3	3.0	404	154	38.1
Tate	405	104	25.7	157	6	3.8	248	98	39.5
Tippah	296	16	5.4	230	4	1.7	66	12	18.2
Tishomingo	239	12	5.0	225	6	2.7	14	6	42.8
Tunica	370	125	33.8	53	4	7.5	317	121	38.2
Union	336	26	7.7	264	11	4.2	72	15	20.8
Walthall	248	35	14.1	98	1	1.0	150	34	22.7
Warren	917	146	15.9	498	14	2.8	419	132	31.5
Washington	1,819	502	27.6	613	19	3.1	1,206	483	40.0
Wayne	345	55	15.9	191	7	3.7	154	48	31.2
Webster	174	28	16.1	114	5	4.4	60	23	38.3
Wilkinson	197	64	32.5	40	0	-	157	64	40.8
Winston	384	64	16.7	170	1	0.6	214	63	29.4
Yalobusha	220	55	25.0	87	2	2.3	133	53	39.8
Yazoo	637	173	27.2	233	8	3.4	404	165	40.8

ILLEGITIMATE LIVE BIRTHS BY COUNTY OF RESIDENCE AND RACE
MISSISSIPPI, 1968

County	Total			White			Nonwhite		
	Total Live Births	Illegitimate Live Births		Total Live Births	Illegitimate Live Births		Total Live Births	Illegitimate Live Births	
		Number	Percent		Number	Percent		Number	Percent
STATE	45,719	8,577	18.8	22,807	686	3.0	22,912	7,891	34.4
Adams	817	248	30.4	391	56	14.3	426	192	45.1
Alcorn	473	53	11.2	387	12	3.1	86	41	47.7
Amite	265	47	17.7	82	4	4.9	183	43	23.5
Attala	387	61	15.8	150	1	0.7	237	60	25.3
Benton	135	29	21.5	51	1	2.0	84	28	33.3
Bolivar	1,404	494	35.2	337	11	3.3	1,067	483	45.3
Calhoun	270	31	11.5	175	6	3.4	95	25	26.3
Carroll	153	31	20.3	49	2	4.1	104	29	27.9
Chickasaw	362	49	13.5	172	4	2.3	190	45	23.7
Choctaw	135	19	14.1	76	1	1.3	59	18	30.5
Claiborne	184	50	27.2	38	2	5.3	146	48	32.9
Clarke	269	37	13.8	135	3	2.2	134	34	25.4
Clay	375	70	18.7	140	3	2.1	235	67	28.5
Coahoma	902	291	32.3	207	6	2.9	695	285	41.0
Copiah	468	91	19.4	170	2	1.2	298	89	29.9
Covington	295	43	14.6	163	5	3.1	132	38	28.8
DeSoto	781	157	20.1	393	12	3.0	388	145	37.4
Forrest	1,119	179	16.0	726	22	3.0	393	157	39.9
Franklin	124	18	14.5	60	1	1.7	64	17	26.6
George	239	12	5.0	196	4	2.0	43	8	18.6
Greene	174	31	17.8	104	4	3.8	70	27	38.6
Grenada	427	81	19.0	178	9	5.0	249	72	28.9
Hancock	338	31	9.2	278	5	1.8	60	26	43.3
Harrison	3,054	282	9.2	2,372	86	3.6	682	196	28.7
Hinds	4,391	810	18.4	2,175	79	3.6	2,216	731	33.0
Holmes	535	163	30.5	88	2	2.3	447	161	36.0
Humphreys	393	115	29.3	98	2	2.0	295	113	38.3
Issaquena	60	15	25.0	14	0	-	46	15	32.6
Itawamba	228	9	3.9	214	5	2.3	14	4	28.6
Jackson	1,864	161	8.6	1,433	41	2.9	431	120	27.8
Jasper	292	34	11.6	106	0	-	186	34	18.3
Jefferson	176	58	33.0	20	1	5.0	156	57	36.5
Jeff Davis	260	43	16.5	94	1	1.1	166	42	25.3
Jones	954	115	12.0	650	12	1.8	304	103	33.9
Kemper	207	44	21.2	46	2	4.3	161	42	26.1
Lafayette	435	61	14.0	251	5	2.0	184	56	30.4

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Illegitimate Live Births by County of Residence and Race
Mississippi, 1968

County	Total			White			Nonwhite		
	Total Live Births	Illegitimate Live Births		Total Live Births	Illegitimate Live Births		Total Live Births	Illegitimate Live Births	
		Number	Percent		Number	Percent		Number	Percent
Lamar	281	33	11.7	222	5	2.2	59	28	47.4
Lauderdale	1,412	250	17.7	724	21	2.9	688	229	33.3
Lawrence	212	36	17.0	128	0	-	84	36	42.8
Leake	301	45	15.0	135	2	1.5	166	43	25.9
Lee	944	103	10.9	678	18	2.6	266	85	32.0
Leflore	1,017	282	27.7	262	4	1.5	755	278	36.8
Lincoln	457	71	15.5	279	8	2.9	178	63	35.4
Lowndes	992	202	20.4	491	13	2.6	501	189	37.7
Madison	772	244	31.6	159	3	1.9	613	241	39.3
Marion	444	70	15.8	248	10	4.0	196	60	30.6
Marshall	531	129	24.3	155	8	5.2	376	121	32.2
Monroe	646	89	13.8	394	10	2.5	252	79	31.3
Montgomery	254	37	14.6	111	0	-	143	37	25.9
Neshoba	376	46	12.2	233	6	2.6	143	40	28.0
Newton	349	41	11.7	181	4	2.2	168	37	22.0
Noxubee	306	87	28.4	61	0	-	245	87	35.5
Oktibbeha	543	95	17.5	285	2	0.7	258	93	36.0
Panola	610	149	24.4	209	12	5.7	401	137	34.2
Pearl River	555	68	12.2	387	10	2.6	168	58	34.5
Perry	191	23	12.0	125	3	2.4	66	20	30.3
Pike	583	99	17.0	261	4	1.5	322	95	29.5
Pontotoc	276	19	6.9	211	4	1.9	65	15	23.1
Prentiss	352	34	9.6	277	8	2.9	75	26	34.7
Quitman	385	109	28.3	102	1	1.0	283	108	38.2
Rankin	755	83	11.0	496	8	1.6	259	75	29.0
Scott	437	49	11.2	256	5	2.0	181	44	24.3
Sharkey	224	63	28.1	42	0	-	182	63	34.6
Simpson	396	49	12.4	210	7	3.3	186	42	22.6
Smith	271	29	10.7	151	2	1.3	120	27	22.5
Stone	154	21	13.6	102	1	1.0	52	20	38.5
Sunflower	994	317	31.9	192	7	3.6	802	310	38.6
Tallahatchie	457	163	35.7	75	2	2.7	382	161	42.1
Tate	367	105	28.6	119	6	5.0	248	99	39.9
Tippah	309	23	7.4	236	4	1.7	73	19	26.0
Tishomingo	195	14	7.2	188	9	4.8	7	5	71.4
Tunica	344	113	32.8	54	4	7.4	290	109	37.6
Union	324	29	9.0	241	1	0.4	83	28	33.7
Walthall	250	49	19.6	100	3	3.0	150	46	30.7
Warren	944	171	18.1	472	16	3.4	472	155	32.8
Washington	1,726	490	28.4	571	22	3.8	1,155	468	40.5
Wayne	311	49	15.8	158	6	3.8	153	43	28.1
Webster	167	22	13.2	108	1	0.9	59	21	35.6
Wilkinson	220	69	31.4	50	3	6.0	170	66	38.8
Winston	334	58	17.4	145	4	2.8	189	54	28.6
Yalobusha	210	40	19.0	89	3	3.4	121	37	30.6
Yazoo	596	147	24.7	215	4	1.9	381	143	37.5

ILLEGITIMACY BY COUNTY OF RESIDENCE AND RACE
MISSISSIPPI, 1967

County	Total			White			Nonwhite		
	Live Births	Illegitimate		Live Births	Illegitimate		Live Births	Illegitimate	
		Number	Percent		Number	Percent		Number	Percent
STATE	46,594	8,344	17.9	22,675	671	3.0	23,919	7,673	32.1
Adams	868	255	29.4	414	62	15.0	454	193	42.5
Alcorn	466	29	6.2	306	9	2.3	80	20	25.0
Amite	268	46	17.2	86	0	-	182	46	25.3
Attala	383	65	17.0	149	5	3.4	234	60	25.6
Benton	135	14	10.4	65	1	1.5	70	13	18.6
Bolivar	1,338	496	37.1	291	10	3.4	1,047	486	46.4
Calhoun	322	38	11.8	189	3	1.6	133	35	26.3
Carroll	182	38	20.9	58	2	3.4	124	36	29.0
Chickasaw	392	57	14.5	195	7	3.6	197	50	25.4
Choctaw	135	24	17.8	78	1	1.3	57	23	40.4
Claiborne	208	55	26.4	44	0	-	164	55	33.5
Clarke	312	51	16.3	151	4	2.6	161	47	29.2
Clay	334	52	15.6	143	1	0.7	191	51	26.7
Coahoma	1,029	293	28.5	246	10	4.1	783	283	36.1
Copiah	491	107	21.8	155	4	2.6	336	103	30.6
Covington	287	44	15.3	156	5	3.2	131	39	29.8
DeSoto	694	115	16.6	335	10	3.0	359	105	29.2
Forrest	1,116	168	15.0	693	28	4.0	423	140	33.1
Franklin	117	24	20.5	60	1	1.7	57	23	40.4
George	266	15	5.6	233	5	2.1	33	10	30.3
Greene	174	28	16.1	117	6	5.1	57	22	38.6
Grenada	412	75	18.2	156	6	3.8	256	69	27.0
Hancock	329	23	7.0	274	11	4.0	55	12	21.8
Harrison	3,084	263	8.5	2,379	85	3.6	705	178	25.2
Hinds	4,347	757	17.4	2,001	56	2.8	2,346	701	29.9
Holmes	552	172	31.2	83	4	4.8	469	168	35.8
Humphreys	409	109	26.6	88	2	2.3	321	107	33.3
Issaquena	51	14	27.4	9	0	-	42	14	33.3
Itawamba	207	9	4.3	192	6	3.1	15	3	20.0
Jackson	1,765	119	6.7	1,346	26	1.9	419	93	22.2
Jasper	330	34	10.3	121	4	3.3	209	30	14.4
Jefferson	194	60	30.9	26	0	-	168	60	35.7
Jeff Davis	263	51	19.4	103	4	3.9	160	47	29.4
Jones	943	113	12.0	609	18	3.0	334	95	28.4
Kemper	191	30	15.7	32	2	6.2	159	28	17.6
Lafayette	467	59	12.6	272	3	1.1	195	56	28.7

Page 4
Illegitimacy by County of Residence and Race
Mississippi, 1967

County	Total			White			Nonwhite		
	Live Births	Illegitimate		Live Births	Illegitimate		Live Births	Illegitimate	
		Number	Percent		Number	Percent		Number	Percent
Lamar	257	14	5.4	196	0	-	61	14	23.0
Lauderdale	1,415	249	17.6	748	18	2.4	667	231	34.6
Lawrence	184	34	18.5	97	4	4.1	87	30	34.5
Leake	320	42	13.1	138	4	2.9	182	38	20.9
Lee	968	83	8.6	709	12	1.7	259	71	27.4
Leflore	1,109	275	24.8	348	14	4.0	761	261	34.3
Lincoln	472	75	15.9	256	5	2.0	216	70	32.4
Lowndes	1,123	201	17.9	599	20	3.3	524	181	34.5
Madison	792	234	29.5	174	4	2.3	618	230	37.2
Marion	457	73	16.0	252	8	3.2	205	65	31.7
Marshall	516	126	24.4	129	3	2.3	387	123	31.8
Monroe	674	103	15.3	381	12	3.1	293	91	31.0
Montgomery	256	50	19.5	92	3	3.2	163	47	28.8
Neshoba	365	40	11.0	225	6	2.7	140	34	24.3
Newton	304	49	16.1	137	4	2.9	167	45	26.9
Noxubee	360	108	30.0	66	0	-	294	108	36.7
Oktibbeha	542	100	18.4	274	4	1.4	268	96	35.8
Panola	604	152	25.2	185	6	3.2	419	146	34.8
Pearl River	540	46	8.5	405	9	2.2	135	37	27.4
Perry	184	18	9.8	115	5	4.3	69	13	18.8
Pike	553	97	17.5	230	8	3.5	323	89	27.6
Pontotoc	278	27	9.7	209	6	2.9	69	21	30.4
Prentiss	336	20	6.0	284	7	2.5	52	13	25.0
Quitman	474	119	25.1	133	3	2.2	341	116	34.0
Rankin	709	72	10.2	476	7	1.5	233	65	27.9
Scott	465	46	9.9	253	3	1.2	212	43	20.3
Sharkey	255	68	26.7	54	3	5.6	201	65	32.3
Simpson	390	50	12.8	218	7	3.2	172	43	25.0
Smith	260	47	18.1	134	5	3.7	126	42	33.3
Stone	130	13	10.0	78	3	3.8	52	10	19.2
Sunflower	951	280	29.4	178	7	3.9	773	273	35.3
Tallahatchie	529	170	32.1	109	6	5.5	420	164	39.0
Tate	421	95	22.6	147	1	0.7	274	94	34.3
Tippah	300	28	9.3	230	11	4.8	70	17	24.3
Tishomingo	233	14	6.0	215	8	3.7	18	6	33.3
Tunica	387	100	25.8	61	0	-	326	100	30.7
Union	345	37	10.7	248	5	2.0	97	32	33.0
Walthall	268	44	16.4	99	2	2.0	169	42	24.8
Warren	909	164	18.0	453	9	2.0	456	155	34.0
Washington	1,851	486	26.2	586	13	2.2	1,265	473	37.4
Wayne	327	48	14.7	184	5	2.7	143	43	30.1
Webster	162	12	7.4	100	0	-	62	12	19.4
Wilkinson	231	47	20.3	58	2	3.4	173	45	26.0
Winston	378	78	20.6	153	2	1.3	225	76	33.8
Yalobusha	250	43	17.2	102	1	1.0	148	42	28.4
Yazoo	699	165	23.6	221	5	2.3	478	160	33.5

TESTIMONY

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION

(Title Omitted in Printing)

TESTIMONY OF GEORGE FERRIS PETTEY
FOR DEFENDANTS

The following proceedings were had in the United States District Court, Northern District of Mississippi, on March 16, 1973, before the Honorable William C. Keady, Chief Judge, at Greenville, Mississippi.

* * *

[2] GEORGE FERRIS PETTY (FOR DEFENDANTS), being first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Terney:

Q. State your name for the record, please. A. George Ferris Pettey.

Q. Mr. Pettey, are you one of the defendants in this action? A. Yes.

Q. What is your position with the Drew school district? A. Superintendent of the district.

Q. And how long have you been the superintendent of the Drew school district? A. This is the third year.

Q. Prior to coming to Drew in this capacity, where were you employed? A. Tunica County schools.

[3] Q. In what capacity? A. Superintendent, Title I coordinator and high school principal.

Q. Over what time period? A. Six years.

Q. How long have you been engaged in the educational field? A. Approximately 24 or 25 years.

Q. And in a capacity from teaching all the way up to administrative superintendent? A. Yes.

Q. What is your educational background, Mr. Pettey? A. I have a bachelor of arts degree from Mississippi College, a master of arts degree from Teachers College, Columbia University.

Q. Mr. Pettey, what is the rule in the Drew Municipal Separate School District concerning employment of teachers that are unmarried and have children? A. The policy followed by me in recommending teachers to the school board for employment is that no applicant, whether male or female, who has been a parent of an illegitimate child would be considered for recommendation.

Q. The policy, then, touches upon the [4] illegitimacy of the child, not the present marital status of the applicant? A. Yes.

Q. In other words, if a divorced parent of a child came and made application, would that applicant be denied employment because he was not married? A. No.

Q. How long has this been the rule in the system?

The Court: Is this in writing, Mr. Pettey?

The Witness: No, sir.

Mr. Terney: I didn't understand the question, Your Honor.

The Court: Was it in writing. He said it was oral.

Mr. Terney: Right.

Q. How long has this been the rule in the Drew school district? A. I can't say. This is my rule, it is not the rule of the school board, as such.

The Court: [5] They have never adopted it as a rule?

The Witness: No, sir.

Mr. Terney:

Q. This has been your rule since you have been in Drew for the last three years in considering teachers for employment, is that right? A. Yes. As long as I have had anything to do with the employment of teacher personnel.

Q. Did you bring this rule with you from Tunica? A. Well, I think it has been a part of my own employment practices ever since I have had anything to do with it, but, of course, it was in Tunica before then.

Q. Is Mrs. McCorkle employed in the school district? A. Yes.

Q. In what capacity?

The Court: Excuse me.

Does the rule relate to teachers' aides, or teachers, or administrators, or who?

The Witness: Any personnel who have direct instructional responsibilities with the children.

[6] The Court: All right.

Mr. Terney:

Q. Well, let me explore the rule, then, at this point. Is this rule applied to males and females equally? A. Yes.

Q. To blacks and whites equally? A. Yes.

Q. To teachers and teachers' aides equally? A. Yes.

The Court: What about to a janitor? Or a maid?

The Witness: No, sir, I don't think we have applied it there.

The Court: What about a cafeteria operator, a dietitian?

The Witness: Well, I wouldn't knowingly employ one. An individual who was—had that responsibility of preparing food or any capacity where there was considerable responsibility.

The Court: All right.

[7] Mr. Terney:

Q. Mr. Pettey, what is the reason for this rule? A. As it pertains to those who have direct contact with children, I think it has been traditional in education that those who would teach, those who would direct the development of children or, in effect, mold their character or their development should be models or examples that children might pattern their lives after or look up to. And I think that this somehow has been left along the trail somewhere in a lot of school districts. But I still think it is just as important as it has been, and in our particular situation I think it is even more important now than in the past because of the reports by people who are doing research—sociologists, educators, social workers—who say that one of the most critical needs of minority disadvantaged children is a model that they can look up to or pattern their lives after that will help to overcome the conditions that have created the poverty cycle and to create in the child a self image that will enable him to have higher ambitions, to expect more of himself, to improve his own self image.

Q. What problems exist in the Drew school district, or have existed in the past, to make you formulate a rule such as this and enforce it? [8] A. Well, as I say, I think it has merely been a traditional practice by school administrators that I am acquainted with that a teacher or teacher aide, other people who have the responsibility of working with children deliberately should have good moral character. In fact, the application prescribed by state law for a teacher certificate requires that a superintendent or the dean of the school of education or major professor attest to the good moral character of the person applying for that license. And I think this has just been accepted, it has just been a part of the practices or the

policies whether written or unwritten, that school administrators have followed.

Now, as it applies in our local situation in Drew, we have had in the last two years—well, I have records of the last two years, and the condition existed before that—I think an alarming number of school girl pregnancies in our school. We only have an enrollment of around 1200 in grades one through twelve. The number of female children of childbearing age would be less than half that number, and yet in 1971-72 we had 28 girls, ranging in age from 13 to 17, who dropped out of school because of pregnancy. This year we have had 13 who have dropped out, ranging in ages from 11 to 18. I think this is a problem that we as school people, responsible for the development of children, should try to do something about. And I think [9] the responsibility of teachers or aides or any school personnel who are dealing directly with the children and who should serve as models is more than just intellectual development. I think we have a responsibility to create a moral climate, moral environment that will help that child to develop in ways that will be in their own best interest.

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[15] *Cross-Examination*

Q. You have kept abreast with recent publications by the teachers college dealing specifically with unwed motherhood? A. No, I haven't.

Q. Are you aware of public documents put forth dealing with the question of unwed parents? A. No.

Q. With unwed students? A. No.

Q. Dealing with the question of the suitability of unwed teachers at all? A. No.

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[16] The Court: I believe he said, Counsel, that this policy was one of his and not the school board, and he wouldn't recommend one. Is that correct?

The Witness: Yes, sir.

The Court: The school board has never taken any action, as such, on the problem?

The Witness: [17] No, sir.

Mr. McTeer: Thank you, Your Honor.

The Court: Have you ever discussed the policy with the school board?

The Witness: I have discussed it with the board since this case was filed. They do concur and—

The Court: All right. They ratified the policy, then?

The Witness: Yes, sir.

The Court: Very well.

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[19] Q. But right now we are talking about Katie Mae Andrews and Listme Rogers, who the only reason for your deciding they were unfit was the basis that they were unwed mothers. I would like to get a little more information as to exactly what crystallizes this point of view that you have. A. I think I have pretty well already answered that, but I will answer it again.

Q. Good. A. It's my feeling from the very beginning of my experience in teaching, or, in fact, in preparing for teaching that teachers' responsibilities go further than two covers of a book and four walls of a room. Teachers share responsibility along with other school personnel for providing an environment which is conducive to the moral development as well as the intellectual development of those with whom they are charged with the responsibility for developing.

Q. So I take it, Mr. Pettey, that a person who supposedly has a, quote, illegitimate child, as you put it,

that fact, no matter when it took place or no matter under what circumstances it took place, is prima facie evidence of [20] a lack of morality? A. It would be to me, yes.

Q. All right. Very good.

Now, let's find out exactly how expansive this marvelous rule of yours is. All right? Now, if I have a child, if I am a woman, conceive of that, if I am a woman—right?—and I had a child three years ago, all right, and I come to you for a job and I am not married, would I be given employment? A. You would not.

Q. All right.

Now, if I had a child three years ago and got married today and then came to you for a job, would I be employed? A. You were not married at the time of the birth of the child?

Q. I was not married at the time. A. You would not be employed.

Q. Wait a minute now. Let's understand this rule. Haven't I fulfilled society's guidelines of morality that you have set forth or am I forever banned? A. You are talking about society.

Q. I am talking about you. It is your rule.

The Court: Let's go back. Suppose a woman had an [21] illegitimate child and then later married either the father of the child or another man. When she presented herself to you she showed she was married and had a child, one child. Would you consider her for employment?

The Witness: No, sir, I would not.

The Court: You would not consider her?

The Witness: No, sir.

The Court: All right.

Mr. McTeer: Your Honor, excuse me, I am having a slight hearing defect. I couldn't hear that exchange.

The Court: Read it back, Mr. Court Reporter.

(Whereupon, the Court Reporter read the exchange.)

Mr. McTeer: Thank you.

Q. Now, earlier in testimony on direct you talked specifically about models and examples. I think that is a very exemplary goal. Let's talk about the different jobs that are available for people in the school [22] district and talk about the direct administration and try to extend your particular analogy to the nth degree. Now, of course, this extends to teachers, correct? A. Yes.

Q. Teacher aides? A. Yes.

Q. Librarians? A. Yes.

Q. Extends to gym teachers? A. Yes.

Q. Would it extend to a cafeteria worker? A. Yes. I have never had that to occur, but I think it would, yes.

Q. What about a secretary? A. Yes.

Q. A janitor? A. I'm not sure about janitors.

Q. Why not? A janitor runs into the children each day. I think each one of us can remember some janitor who gave us candy or was close to us. Would it extend to a janitor? A. I don't know. It hasn't occurred and I haven't made that decision yet.

Q. Would it extend to a bus driver? A. (No response)

[23] Q. A school bus driver? A. I can't say.

Q. Would it extend to a nurse? A. Yes.

Q. And a social worker? A. Well, if we had social workers.

Q. Principal? A. Yes.

Q. A party who volunteers to do school work or to work with teachers? A. If we had those, it would, yes.

Q. Would you object to a PTA president on the basis of his unwed parenthood? A. I would.

Q. And you would make all these objections only on the basis that these particular parties would be considered the father or the mother of an illegitimate child? A. Yes.

Q. You said earlier in your direct testimony there was an alarming number of schoolgirl pregnancies, right? A. Right.

Q. Okay.

Can you show me any direct relationship [24] between schoolgirl pregnancies and unwed teachers? A. No.

Q. So this is really a presumption on your part that if you take an unwed mother and put her in a classroom that is going to breed unwed schoolgirls, correct? A. I don't know whether it's a presumption. I don't have any scientific basis for it.

Q. Indeed, you said earlier that you did have a scientific basis for it. Earlier, on direct testimony, you said specifically the fact that there was sociological evidence to the effect that the morality of students would be affected in said situation. A. No, I didn't.

Q. You did not? A. No.

Q. Very good.

Let's be honest with each other. Isn't it easier to find an unwed mother than an unwed father? A. Oh, yes.

Q. Why? A. Because the unwed mother is stuck with the result.

Q. I see.

Now, you have implemented a policy which Mrs. McCorkle has been the, quote, executor of, is that [25] correct? A. Yes.

Q. And Mrs. McCorkle has been advised by you to implement that policy as she sees fit, correct? A. Yes.

Q. Have you ever warned her of this extreme difficulty in finding the unwed father? A. No.

Q. Have you ever told her that she may have to investigate to the nth degree to find an unwed father? A. No.

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[27] Q. Now, you have said that the actions of a person in having an illegitimate child are immoral. A. Yes.

Q. Why? A. Well, I think the majority of the people have determined that. Morality is determined by the majorities.

Q. How many black people in your school district? A. Oh, I think we have around 11—wait a minute. Around a thousand, I suppose.

Q. What percentage of your school is black? A. About 30 percent.

Q. Do you know what the figures are among black people for illegitimate births? A. I think 30 to 40 percent.

Q. Do you know what the figures are for white people? A. Oh, about half that.

Q. That is illegitimate live births, correct? [28] A. Right.

Q. Isn't this really an imposition upon a community of your morality? A. I think not.

Q. You think not. You think that the rule which you have carried, as you said, all of your educational career from Tunica as a superintendent, you think that this rule is indeed necessary for the development of a school district, is that correct? A. For the discharge of the school district's responsibility to its children, yes.

The Court: Mr. Pettey, you do not think the facts or circumstances under which an illegitimate birth occurred is at all relevant to the issue of good character or bad character?

The Witness: No, sir. That would be hard to get at. I think the fact that the birth occurred without the benefit of matrimony is, to me, proof enough of the—

The Court: Is conclusive?

The Witness: Yes, sir.

The Court: [29] All right.

Mr. McTeer:

Q. I want to know why you have such strong feelings about unwed parents. Let me ask you this question. Have you done any investigation on homosexuality? A. I have not.

Q. Have you instructed the director, Mrs. McCorkle, that she is not to hire any homosexuals? A. I have not.

Q. Have you instructed her she is not to hire sexual deviates? A. No.

Q. Have you instructed her she is not to hire individuals who have been convicted of criminal acts? A. No.

Q. Only unwed mothers? A. Yes.

Q. Why? Why do you choose the unwed mother? Have you had an unwed mother in your family? A. Because this is the first time an applicant has had the audacity to apply who had this marital status.

Q. How do you know? A. Well, from the records, then, I will say. We may have had a dozen as far as I know.

Q. But you have said already, and Mrs. McCorkle [30] has said already, there was never any investigation. She didn't know that was the rule. A. That's right.

Q. Now, how do you know that you have never had an applicant? A. Well, I haven't recommended one knowingly, then. Perhaps there have been applicants and I didn't know about them. But we do know about these.

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION

(Title Omitted in Printing)

The following proceedings were had in the United States District Court, Northern District of Mississippi, on March 16, 1973, before the Honorable William C. Keady, Chief Judge, at Greenville, Mississippi.

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MRS. FRED McCORKLE (FOR DEFENDANTS)

[5] *Direct Examination*

By Mr. Terney:

Q. Would you state your name, please, for the record. A. Mrs. Fred McCorkle.

Q. Mrs. McCorkle, where do you live? A. In Drew, Mississippi.

Q. And where are you employed? A. In the Drew Municipal Separate School District.

Q. What is your title or what is your employment there? A. Coordinator of Elementary Instruction.

Q. Is that under the Title I program? A. Yes.

Q. Mrs. McCorkle, how long have you been so employed by the Drew Municipal Separate School District? A. Three years.

Q. What are your duties with the Drew Municipal Separate School District? A. I am in charge of the aide program and I also supervise teaching in the first two grades.

Q. Do you handle the employment of the teacher aides within the school district? [6] A. I recommend who shall be hired.

Q. Now, what is the procedure when an individual comes in to make application for a position as a teacher's aide in Drew? A. I have them fill out an application, and then I investigate and ask other people who know about them, and then I recommend to the Superintendent—to the Principal and then to the Superintendent.

Q. You make a recommendation whether that particular individual be employed? A. Yes.

The Court: Your recommendations go to whom, ma'am?

The Witness: They go to the Superintendent.

The Court: All right.

Mr. Terney:

Q. Is the application that is made by an individual for employment a written application? A. Yes.

Q. Do you finish the form that they fill out? A. Yes.

Q. Do you do this in every case of teacher aides? [7] A. Yes, every one fills out an application.

Q. Do you personally review these applications and make an investigation on the individual involved? A. Yes.

Q. At times, have you failed to act on applications? A. (No response)

Q. At times, have you failed to recommend individuals who made applications for positions of employment? A. Yes.

Q. Did you have occasion to take the application of one of the plaintiffs in this, Katie Mae Andrews? A. Yes.

Q. When was that, Mrs. McCorkle? A. The application is dated 12-18-72.

Q. Did she make a written application with you? A. Yes.

Q. For what position? A. A teacher's aide.

Q. Did you have a personal conference with her? A. Yes.

The Court: What academic training was required for [8] teacher aides by the Drew schools?

The Witness: They must be at least a high school graduate.

The Court: All right.

Mr. Terney:

Q. What duties or functions does a teacher's aide engage in in the Drew School District? What, actually, does a teacher's aide do? A. She assists the teacher. She is under the teacher's direction. Whatever activities the teacher wants her to carry on she explains to her and she carries them on in the classroom. The aide also has charge of the children during the recess and noon hours.

Q. Then they do have personal contact with the children, is that correct? A. Yes.

Q. How many such teacher aides are presently employed within the Drew school system? A. Thirty-three.

Q. Now, how is the salary for a teacher's aide determined? A. It depends upon the amount of education that they have.

Q. What is the lowest salary? [9] A. High school graduates are paid 250 a month.

Q. Two hundred fifty dollars per month? A. That's right.

Q. What is the highest salary paid? A. Four hundred fifty per month.

Q. Who qualifies for that salary? A. A college graduate.

Q. And what about the in-between salary range? A. They receive increments of $50 for every year of training, college training.

Q. College.

Customarily, when are these teacher aides contracted with for employment? A. In August.

Q. Immediately preceding the school year? A. That's right.

Q. Are they employed on a one-year basis? A. That's right.

Q. From a year-to-year basis? A. That's right.

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[11] Q. Now, Mrs. McCorkle, the application that has now been introduced into evidence, you stated this is the original application of Katie Mae Andrews, is that correct? A. It is.

Q. Who filled out the information on the basis of the application? [12] A. Katie Mae Andrews.

Q. Did she also sign and date this application? A. She did.

Q. Was this done in your presence? A. Yes.

Q. After her application was submitted to you, what did you advise her at that initial meeting with her as to her employment or possibility of employment? A. I told her that I would investigate. And I did.

Q. Do you customarily do this for every applicant? A. Yes.

Q. Do you make a personal interview? A. Yes.

Q. What does this investigation consist of? A. I generally consult with other members of the staff, ask their opinion as to whether or not I should hire. I always go to the Principal.

Q. If they personally know these individuals? A. Yes.

Q. Did you do this with Katie Mae Andrews? A. Yes.

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[13] Q. Now, what did your examination of Katie Mae Andrews reveal after the application was filed with you? A. I learned that she had a child.

Q. A child out of wedlock? A. Yes.

Q. What did you then do with her application? A. I just put it back in the file.

[14] Q. Did you fail to consider it any further? A. I did not consider it further.

Q. Why? A. Because the policy of the school would not let me consider her when she was unmarried.

Q. What is the policy of the school district? A. We do not hire unwed parents.

Q. Is there any other reason you failed to act on this application? A. No.

Q. Did you discuss this with the Superintendent? A. No.

Q. So you just failed to act on the application because of the rule of the school district? A. It was the policy of the school.

Q. All right.

Did Katie Mae Andrews subsequently contact you? A. Yes.

Q. Now, when was that? A. I don't remember the date.

Q. Was it during the month of January 1973? A. Yes.

Q. Did she come to your office, or contact you by telephone or how? [15] A. She called me on the telephone.

Q. What did you advise— A. Later she came to the office.

Q. You just asked her to come to your office? A. She came to the office of the Principal.

Q. All right.

Did you meet with her? A. Yes.

Q. What was the purpose of her visit? A. She wanted to ask about her application.

Q. Did she ask you about the application? A. Yes.

Q. What did she tell you? What did she ask you? A. She said she wanted to apply for a job, and I told her that I could not consider her because she was an unwed parent.

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[18] Q. Have you also had occasion to have a conference with the other plaintiff in this matter, Lestine Rogers? A. Not since last spring.

Q. Was she employed by the Drew school system at that time? A. At that time, she was.

Q. For how many years was she employed by the school district? A. One year.

Q. Was that '71-'72 school year? A. Yes.

Q. Last year? A. Last year.

Q. Did you recommend her for employment? A. For the next year?

Q. No, ma'am. For the first year. A. Yes.

Q. She made application in the normal procedure, and you recommended her for employment? A. That's right.

[19] The Court: Was she a teacher's aide too?

The Witness: Yes, she was a teacher's aide.

Mr. Terney:

Q. And did she fill out her contract for the year as a teacher's aide the last year? A. Yes, last year.

Q. What was her salary? A. Two hundred fifty dollars per month for nine months.

Q. What was her educational level? A. High school.

Q. High school graduate? A. That's right.

Q. Did you recommend her for employment for the 1972-'73 school year, the current school year? A. I did not.

Q. Why? A. The Superintendent explained the policy that we do not hire unmarried parents, therefore I did not recommend her to be rehired.

Q. When was this done, Mrs. McCorkle? A. In the spring of last year, before school was out.

[20] Q. You advised her at that time that she would not be employed for the coming school year, for the present school year? A. That's right.

Q. Did her application indicate that she was an unmarried parent? A. Yes. She says, "Single." And number of children: "One."

Q. When was this policy of the school district explained to you? A. Last spring.

Q. By whom? A. The Superintendent, Mr. Pettey.

The Court: You had not had such a policy before?

The Witness: I had not been told of the policy. That is the first I knew of the policy.

The Court: All right.

Mr. Terney:

Q. Did you personally advise Listine Rogers that she would not be employed, then, for the '72-'73 school year? A. Yes, I did.

[21] Q. All right.

Did you know how many illegitimate children she had at that time? A. Her application said one.

The Court: Well, now, would that indicate it was an illegitimate child? Do you have a space on there for divorced? How does your application read? May I see that?

* * *

[23] Q. Do you know whether or not plaintiff Lestine Rogers has subsequently had any other children? A. I heard from several sources that she has another child.

Q. That you were not aware of at the time you advised her that she would not be employed? A. No, I did not know it then.

Q. Now, on Katie Mae Andrews' application, did you make any notations on that application yourself? A. Yes. I wrote on there, "She has a child. Single with a child." And I have three or four. The child is about three or four years old.

Q. Now, these notations on that application [24] are yours? A. They are mine. They are made with pencil.

Q. When did you make those marks or lettering on there? A. When I was investigating.

Q. All right.

Is there anything on the back of that application? A. Yes.

Q. Now, who did the writing on the back of the application? A. I did.

Q. Could you read that, please. A. "This applicant would have been hired in January 1973 if I had not received information from Mrs. Clara Robertson and others at the James Elementary School that she had a child. The applicant stated on the application that she was single and had no children. When she called by phone in January, I informed her of the school policy and have had no contact with the applicant since then."

Q. Now, this is your writing, is that correct? A. That's right.

Q. When did you add that on the application? A. (No response)

[25] Q. It was done during the course of or at the conclusion of your investigation? A. That's right.

Q. Would you recommend for employment an individual who made a material misrepresentation on an application? A. I would not.

Q. Do you consider the fact that Katie Mae Andrews indicated she did not have a child when in fact she did a material misrepresentation? A. I consider it a misrepresentation.

Q. If the school district did not have this policy considering unwed parents and this applicant had made a material misrepresentation on her application, would you recommend her for employment? A. I would not.

Q. I believe you testified earlier there are presently no vacancies in the system for teacher aides. Is that correct? A. That's correct.

Q. Mrs. McCorkle, when you state that the policy of the school district is to the effect that it will not employ an unmarried parent, now, as you implement this policy, how do you consider in the light of this rule a divorced parent? [26] A. The occasion has never come up, so I haven't had to—

Q. Would you recommend for employment a person that is divorced but in fact has a child? A. I would have to get the ruling of the Superintendent on that, because he sets policy.

* * *

Cross-Examination

[35] Q. What church are you a member of?

The Witness: Drew Baptist Church.

Mr. McTeer:

Q. Is that an integrated church? A. No.

Q. Do any black people go there? A. No.

Q. Are you a member of any social club that has black people as members? A. No.

Q. How do you find out this information, Mrs. McCorkle? A. I go to others on the administrative staff at the school.

Q. You do what? [36] A. I ask the other staff members in the school.

Q. That would be other teachers, other administrators? A. Principals.

The Court: Is the faculty integrated?

The Witness; Yes, the faculty is integrated.

The Court: All right.

Mr. McTeer:

Q. Now, when Miss Katie Mae Andrews made her application, you said you talked to someone by the name of Miss Clara Robertson, is that correct? A. That's right.

Q. Who is Clara Robertson? A. She was an elementary supervisor.

Q. Is she black or white? A. She is black.

Q. Exactly, when you talked to Miss Robertson and you had a conversation, et cetera, you asked her specifically whether or not Katie Mae Andrews had a child and was not married, is that correct? A. I did not ask about the child. I asked her [37] for her recommendation in regard to whether or not I should hire her.

Q. I see. And at that time she told you that Miss Andrews had a child and was not married, is that correct? A. That's correct.

Q. Did you check to find out whether or not that was true? A. I asked other people, and they knew that Miss Andrews—

Q. Who else did you ask? A. I do not remember.

Q. You don't remember.

Mr. Terney: Your Honor, we object to that. I think the pleadings themselves admit the plaintiff—

The Court: Is that an issue in the case? Whether this Miss Andrews is the mother of a child? Is that in issue?

Mr. McTeer: No, it is not.

The Court: Well, it seems to me like you are going afield.

Mr. McTeer:

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[40] Q. When men are hired for these particular teacher aide positions and you are about to make your investigation, do you make the same type of investigation as you make for a woman? A. Yes.

Q. All right.

Now, how do you go about making this investigation? Exactly what would you do in order to make this investigation? A. I go to the Principal first and ask his recommendation.

Q. And then? A. Then I have been to the principal of the high school and the principal of the junior high school on occasions.

Q. Do you know how many people—male or female—have been denied employment at the Drew Municipal Separate School District because they are unwed parents? A. No, I do not know.

Q. All right.

Do you know how many women have been denied employment because they were unwed parents? [41] A. No, I cannot tell you that.

Q. Do you know how many men have been denied employment? A. I cannot tell you that.

Q. Do you know who Miss Betty Barnes is? A. I have seen her.

Q. All right.

Was Miss Betty Barnes denied employment because of her unwed parent status? A. Yes.

Q. I see.

Now, can you give me the name of a man who was denied employment because of his unwed parent status? A. No, I cannot.

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[42] Q. Do you know a Miss Violet Burnett? A. Yes, I do.

Q. Was she denied employment because of the fact she was an unwed parent? A. Her contract was not renewed.

Q. Because of what reason? A. Because she was an unwed parent.

The Court: What was that name, Counsel?

Mr. McTeer: Violet Burnett.

Q. Do you know Miss Rosie Mays? A. Rosie Dean Mays?

Q. That's correct. A. Yes, I know her.

Q. Was she denied employment because of her unwed parent status? A. She had worked on her contract. She was not given a new contract because of her unwed status.

Q. Now, once again I ask you, do you know the [43] name of a man who has been denied employment because of his unwed parent status? A. No, I do not.

Q. Very good.

Now, when Miss Katie Mae Andrews came to see you on the 18th of December—that is correct, is it not? A. That is what the application says.

Q. All right.

When she came to see you at that time, was there a vacancy open as a teacher's aide? A. Yes, there was.

Q. Since that time that vacancy has been filled? A. It has.

Q. Who has it been filled by? A. Mrs. Georgeanne Ward.

Q. Is she white or black? A. She's white.

Q. I see.

Now, you make, you say, a complete investigation of every person that comes before you who is making an application for a job as a teacher's aide, correct? A.

I do not investigate every person. I [44] investigate those that I think I might hire. Some I do not consider because I start with those who have the most college training.

Q. Okay. Those who have the most college training.

But yet, you chose to investigate Miss Katie Mae Andrews, who on the face of her application made a statement that she was a college graduate. Why did you choose to investigate her application? A. Because I had a vacancy at the time for which I was going to consider her.

Q. I see.

Now, have you ever fired or caused to be discharged a white woman on the basis of her unwed parent status? A. I have not.

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[45] Q. Let me ask you a question, Mrs. McCorkle. You made note of the fact earlier that Miss Lestine Rogers was hired on the basis of the application which is now Defendants' Exhibit Number Two, is that correct? A. That's correct.

Q. Now, this application was made out in August, you said, prior to this time, August of 1971. Is that correct? A. She worked last year in the school system and it was filed prior to last year.

Q. So that would be before September of 1971, correct? A. (Witness moved head up and down)

Q. Thank you.

Now, it says here in this application that she was single and she had a child. Is that correct? A. That's correct.

Q. But at that time the school district didn't seem to have a policy that an unwed mother could not be hired, is that correct? A. I had not been informed of the policy.

Q. You had not been informed of that. But you were so informed when? A. Last spring, before school was out.

Q. Who were you informed by? [46] A. The Superintendent.

Q. Mr. Pettey so informed you? A. Mr. Pettey.

Q. Okay.

Now, how did you specifically find out that Miss Lestine Rogers had a child? A. I don't remember.

Q. I see.

Did you make an investigation of every teacher aide in the school district? A. Yes.

Q. You did? You made an investigation of every one? A. (Witness moved head up and down)

Q. And the only one you came up with was Miss Lestine Rogers? A. There were two others.

Q. And the other two were fired. Who were the other two? A. Violet Burnett and Rosie Dean Mays.

Q. Okay. Very good.

The Court: That was after the new policy came into effect?

The Witness: Yes.

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[52] *Recross-Examination*

By Mr. McTeer:

Q. Mrs. McCorkle, on redirect you just stated that there are no males in the school system who have illegitimate children. A. In the aide program.

Q. Oh, no males in the aide program. All right. How do you know that? A. I only have one male aide.

Q. Is he white or black? A. He is black.

Q. How do you know he doesn't have any illegitimate children? A. He is married.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION

(Title Omitted in Printing)

TESTIMONY OF RONALD G. SAMUDA

The following proceedings were had in the United States District Court, Northern District of Mississippi, before the Honorable William C. Keady, Chief Judge, on March 19, 1973, at Greenville, Mississippi.

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[3] RONALD G. SAMUDA (FOR PLAINTIFFS), being first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. McTeer:

Q. Mr. Samuda, would you please state your full name. A. Ronald G. Samuda.

Q. Who are you employed by? A. Columbia Teachers College.

Q. Very good. What is your position with that institution? A. Assistant Dean for Program Development, Associate Professor of Education, and Director of the Center for Ethnic and Urban Studies.

Q. Very good.

Doctor, would you please give me a few of your, quote, educational credentials, please. A. Well, I have a number of certificates. One from England, about three or four from Canada, I am a member of the American Psychological Association, of the American Educational Research Association and a number of [4] other different professional organizations, such as the Canadian College of Teachers. I hold a doctoral degree in education, teacher

education in particular, I have been practicing for about 25 years in various countries. I did a post doctoral fellowship at Stanford University in behavioral psychology. I have also recently been the Director of the Institute for the Assessment and Guidance of Minorities at the Educational Testing Service at Princeton.

Q. Mr. Samuda, have you published any recent publications? A. Yes, I have. I have written concerning the impact of cybernetics on counseling, I am in the process of preparing four volumes, one which deals directly with the education of minorities. And also, I am very much involved in the business of testing, attempting to make testing more facilitative for the education of blacks, Puerto Ricans and Chicanos.

Mr. McTeer: Your Honor, on the basis of that testimony, I would like to qualify Mr. Samuda as an educational sociological expert.

The Court: Do you have any questions on voir dire?

Mr. Terney: [5] No questions.

The Court: All right.

You may treat him as such.

Mr. McTeer:

Q. Dr. Samuda, does unwed parenthood or unwed motherhood have anything to do with the so-called moral condition of the said unwed mother or unwed parent? A. Well, I would like—I am going to answer, and I would like to qualify that or speak to it. First of all, when we speak about moral condition, in my opinion we are inferring certain value patterns or a lack of moral values which are inconsistent with the sanctions of society. Again my opinion, having a child is not a moral event, it is a biological and physiological fact. Therefore, the objection to a teacher practicing in a classroom who is an unwed mother is related not to the fact that she has had a child but to the fact that she has committed a

sexual act which preceded the birth of the child. But if we say then that a person who cohabits or who has had sexual intercourse, that is to say, premarital sex or extramarital sex, is an immoral person, then we would also be condemning a great majority of the practicing teachers throughout the country who indeed have participated in extramarital sex. In fact, Kinsey has shown that premarital sex and extramarital [6] sex is far more frequent and far more extensive amongst the upper middle class than it is amongst the working class. In fact, that the moral values of the working class, and particularly of black communities, are far more rigid than that of the upper middle class. Therefore, my point is that there is no correlation between having borne a child and teaching. What one is talking about is the intermediary, that is, the sexual act.

Now, there is another point that I would like to make here. And that is if we say then that middle class girls cohabit and that working class and black people cohabit, they are doing the same thing, what is lacking? What is the difference? The difference is in the fact of contraception or the difference might be in the fact of abortion. So we are really talking about the moral condition of abortion and of contraception or the intermediary between the sexual act and the bearing of a child.

Q. Thank you very much.

In your opinion, Doctor, should unwed motherhood or unwed parenthood have anything to do with the direct ability to teach or with the presentation of a proper image before students? A. Again, I am of the opinion that it has nothing at all to do with a person's competence to teach. We have to make a distinction between the word model and [7] the process of modeling as determined, for example, by Babdura. It is true that if a person who represents a prestigious figure were to practice

certain acts in the classroom that this would represent modeling. But what we are talking about here is inferential rather than direct. The fact that a woman has a child means that she may have cohabited once in her life and has borne that child. If it could be shown that this person were proselytizing the fact of extramarital affairs, et cetera, then this would be overt behavior. But we are not talking about overt behavior, we are talking here about inferential value systems.

Q. Now, you have heard of the rule of the Drew Municipal Separate School District saying that under no conditions shall an unwed parent, or, as has been more often the case, an unwed mother, be allowed to teach. Could you please tell me your personal opinion of the educational viability of such a rule. A. Quite frankly, it—I'm flabbergasted that such a thing should be wrought to this point because it is patently absurd, in my opinion. It is not a viable consideration based upon any of the works that I have been reading, particularly recently. In fact, this is exactly the position that the women's liberation are taking, that a woman has the right to control her own behavior, providing [8] her behavior is not impingeing upon the rights of other people. Now, the inference here is that a woman must abide by a particular moral code which has been set down by somebody who is external to her. The only relationship between her behavior is if it impinges upon the lives and the value systems of those children in her charge.

Now, I have just been reading before I came, on the plane down here, one of the rather more extensively known books in which even if one attempted directly to teach values it does not get across in the classroom.

Q. Would you explain that more fully. A. Values are taught in the home. Values essentially are laid down in the home. And it is an extremely difficult thing, al-

most an impossible thing—we have a negligible effect when we attempt to teach values directly in the classroom. Because the value system, the physiological makeup, the mental set of the child is determined not by the school essentially but by the home. And if one even wanted, if someone came to me and said, "Now, I want to set up a system or program in which we would teach these values," I could not just place a person and infer from the fact that this kind of person has certain attributes or has done certain things or has certain value patterns and expect that the children are [9] going to get this. Even if I wanted to, it wouldn't happen. So what we are talking about then is the effect of schooling on the values and attitudes of children. The piece I am quoting here is Remmers Radler, The American Teenager, pages 210 to 216, in which they contend that the basic patterns and beliefs are not usually established by schools, nor are they readily changed by schools. The home is the place where morals are developed. And Monahan has also shown that the frequency and extent of sexuality among—as I said, I want to repeat this fact because I think it is important—among the middle class is far greater than that amongst the working class. And that, as I said before, that amongst the black population there is a far more rigid code. The point I want to make here is that the moral value is being placed, in my opinion, in this particular controversy, not upon the fact of childbirth but upon the intermediary between sexuality and childbirth, namely that of contraception or abortion, and therefore, in my opinion, it is an absurd position.

Q. Let me ask you this question. In terms of the rule itself there has been testimony to the effect that the rule was created in order to create a proper image for black children. Is it possible to infer that this rule, in fact, is detrimental to the best interests of black chil-

dren in a situation where a majority or a large [10] number of those children, say a third or more, a large number of those children come from homes with a matriarch or come from homes which have an unwed parent?

A. Well, as a matter of fact, I think that to infer that a teacher must be a middle class person could almost be psychologically detrimental to black children. Because what you are really doing is introducing a foreign, an alien value system. There are differences between the value system of black children and that of white children, and these have historical antecedents. It is based upon the fact of slavery. Where does the matriarchal society come from? Why? Is it a natural and ordinary, an African thing? In my opinion, it is not. Africans have a very, very strict code of morals. What has occurred in the interim is that as a result of slavery the male slaves were deliberately taken away from the family, and this was done in order to prevent unity. And also, the tribal groups were broken up, the family was broken up and males were deliberately removed from the family so that there would not be rebellion. This was understandable because slavery was a fact. Now, this historical fact, in my opinion, is the reason why you have a sort of matriarchal tendency within the black community.

Now, the point I am trying to make is that there is a kind of value system within the black community, [11] there is another kind of value system within the middle class white community. And these are different. And when you place a white Anglo-Saxon, Protestant, upper middle class person in a classroom to teach black children, you have conflicting values. And, in fact, I think that you would tend to produce an even more psychologically damaging effect than if you have this divergence of class structure.

Q. Hence the real effect of this rule, in essence, to black children is indeed a very damaging one in terms of their personal psychologies? A. In my opinion, to introduce strange and alien values into a classroom is detrimental.

The Court: Do you think, then, the Supreme Court was wrong in Brown versus Board of Education in ordering integration of education?

The Witness: No, I wouldn't go so far as to say that, Your Honor. What I am trying to say is that we need to look at the way in which we are going to organize education in view of the fact that we have tried to be fair. But it's not a simple matter. I don't think we can just suddenly say, "All right, let's put a lot of white teachers into black classrooms and then we can produce this kind of [12] culture." It's not going to happen that way. The black people are a special kind of people. They are almost like a foreign people. I happen to have been born, for example, in Jamaica. There are differences between my value structure and the value structure of my colleagues who are white Americans. This is what I am saying. That there are differences in value and that we must be cognizant of these and, in fact, to attempt to introduce new values can be psychologically damaging to these children.

The Court: All right.

Mr. McTeer:

Q. Dr. Samuda, one last question. In your opinion, would the mere existence within a classroom as a teacher of an unwed mother teach female students or male students to become unwed parents? A. No. That's impossible. Again because it is inferential. Even if one deliberately attempted to do it, it would be impossible. Because there is confusion between the concept or the name model, and model is something like a small airplane or an individual

who is prestigious, that is one thing, the other thing is the process of modeling, which is a part of behavioral psychology. Now, children learn when they see a prestigious person doing something in a classroom or wherever and when [13] they see that person being reinforced or being rewarded for going through those acts. Children then would tend to imitate those acts. Now, if we were talking about overt promiscuity, if we were talking about observable behavior, then I would say that those children would be learning those values. But it seems to me that we are talking about inferences, about inferential—an inferential value system. And in my opinion, if there is no evidence of overt behavior and of the proselytizing of extramarital sex, then I can see no correlation whatsoever between being an unwed mother and being a competent teacher.

Q. Doctor, one last statement. What do you think will be the reaction, what do you think is the reaction of the educational community, the esteemed educational community that you are part of, Columbia Teachers College, to this rule? What do you think that reaction is? A. We would be shocked. We would essentially be shocked. We would be—I think that if such a rule was made it would have very tremendous detrimental repercussions. I think it would become extremely significant as one of the issues which would again show a form of unfairness, because it would repeat a form of discrimination—eventual discrimination. Because if, as I understand it, there are about one-third of the births of [14] black people from unmarried, then it would mean that you are excluding from employment at least one-third of the people who are trying to raise their standards of living, raise their standards of life. And therefore this kind of ruling would be seen, I think, as discriminatory. I am quite sure that my institution and, in fact, the colleagues with

whom I am now associated on national projects would not only be shocked but would begin to protest very vigorously.

Cross-Examination

* * *

[18] Q. If the rule, then, is enforced equally against males and females, how can you say that it is discriminatory against females? A. I don't see how you could enforce such a rule against males, because when a man has a sexual act there is no way to tell whether he has a child of his own [19] or not.

Q. Doctor, the procedure is that an individual seeking employment at the Drew schools fills out an application on which there are questions relating to the marital status and the number of children. Now, if a male teacher is unmarried and indicates so on his application and further indicates that he has a child, this is one method of determining whether or not— A. Well, you see, again in my opinion, a man—when a man makes love to a woman nothing happens to him. It is the woman who bears the child. I mean, it is an obvious fact. She becomes pregnant and she has a child. In other words, it is very easy for a man to lie. In fact, it is even very difficult for a man to verify the fact that he is a father.

* * *

[20] Q. Do you feel that this is solely a moral question that we are talking about here today? A. Well, we are talking, in my opinion, sir, about justice, we are talking about what I consider if this rule were put into effect to be an unjust rule. You know, just because it is making inferences and it is not based upon the observation of behavior. And it is making inferences and it is not based upon the observation of behavior. And it is casting aspersions at the character of a person simply

and solely on the basis of having borne a child, which I feel would be unjust.

Q. Do you feel it is unjust to convict and confine a murderer for one isolated act that he commits?

Mr. McTeer: [21] Your Honor, objection.

The Court: Overruled. I will hear the answer.

The Witness: A murderer?

Mr. Terney:

Q. A murderer or a rapist. A. I don't think there is any relationship whatsoever to what we are talking about.

Q. We are talking about one isolated act. A. No—

Q. Let me ask you this. A. I do not—you see, you are talking there about a crime. I do not consider the fact of sexual intercourse to be a crime, nor do I consider the fact that the woman bears a child to be a crime. Now, you are trying to equate murder with bearing a child. And I think that the difference is so vast that it is an absurdity.

Q. Do you know that in Mississippi illegal cohabitation between two unmarried people is against the law? A. (No response)

Q. It's a state law. A. I don't know that, sir.

Q. All right. So, in order to conceive, the [22] parents, the mother or the father in this case, must have violated the law if they were in Mississippi.

Now, first of all, what is your opinion about whether or not premarital sex is moral or immoral? A. Is premarital sex moral or immoral? I think that is a very difficult thing to answer. I don't think you can say that it is either moral or immoral until you look at the particular circumstances. For example, I believe that there are kinds of marital sex that are immoral. For example, where two people are married and where they hate each

other, where they have reached a point where the marriage has completely broken down, you have a legal condition, but you have a psychological condition which is going to have a detrimental effect upon the children of that marriage. So the concept of morality has to do with a particular case, and which particular case you are talking about, I would have to look at.

Q. You believe in situation ethics? A. Yes, I do.

Q. So you believe we ought to take all our rules and regulations and laws and throw them out the back door— A. No, sir.

Q. —and judge every instance— A. No, sir.

[23] Q. —upon the particular circumstances at the time? A. No, I don't. But I do think that this rule would be a travesty.

Q. Are you familiar with the moral values in this section of the country, of the United States? A. I believe so.

Q. And you have told the Court that in your opinion the black race holds different moral values and standards than the white race? A. Different values. A different set of values, a different set of psychological conditions. And that these psychological conditions have been determined by the historical antecedents of each particular group of people. And that there is a different value system within the white middle class community as opposed to the black community, because the black community has suffered many hundreds of years of slavery.

Q. All right. When you say value system, are you using this also to mean their morals? A. Well, again it depends on what you mean by morals. Values. For example—

Q. Well, now, excuse me, Doctor. You have used both morals and values. I was just trying to get to whether you are using them interchangeably with the same meaning

or [24] if morals means one thing to you and values another. A. Values, in my opinion, is a more comprehensive term than morals. When we talk about morals we are talking about a code that deals with the sanctions of a particular society. When we talk about values, it is a philosophy of life, a way of looking at things. And again in my opinion, the philosophy of the black community has necessarily been one of survival. Survival because of the conditions under which they live. And because the historical conditions and because the origins of the two people were different, therefore, they have different sets of values, although they live in the same country.

Q. Do you condone premarital sex? A. Do I condone premarital sex? Again, I would have to look at each particular case and I would have to say what are the circumstances.

Q. All right. In what set of circumstances could you condone it? A. Well, let us say, for example, that a woman—let us say, for instance, that a woman and man that were both very deeply in love and that—let's say, for instance, that they were going to the university or something like that and they decided that they want to live together. In my opinion, that is their affair. I don't think that they are breaking any moral code as long [25] as they are not impinging upon the rights of other people.

Q. Doesn't this completely undermine the concept upon which this country was founded, the family unit system, really? A. I don't agree with that, sir. In fact, I have served in about four universities in this country and I have served as senior staff psychologist on the staff of Stanford University, where I worked in the dormitories, and my observations even amongst the individuals in such a status, you know, premarital sex is the rule rather than the exception.

Q. Does this make it right? A. No. I am simply stating that it is a fact, that it exists. It exists in every college, in every university throughout the union.

Q. Doctor, we are talking about high school and junior high school students today. This is not a university. This is a 12-grade rural school district. If I told you that the testimony has been that there is a very serious problem with school-girl pregnancies in this school district over the last two years, ages between 13 and 17, where a very high percentage of these students have had to drop out of school because of unwanted pregnancies, would you say that the act of employing teachers of unwed parent status would have an effect one way or the [26] other on these students? A. No.

Q. Now, you said that you thought that this was an inferential situation of a model in a classroom. How familiar are you with studies of minority groups, particularly in the Negro race, to the effect that many, many, a very high percentage of these, are broken homes, where there may be only one parent, in most cases a mother, with many children in the home and that the need of these children for a dominant parent figure, which in many, many cases has been transferred to a facility member, a classroom teacher—are you familiar with these studies? A. Very much.

Q. And you are going to tell us here today that you feel that the classroom teacher in a classroom over one of these students has no influence over that child's values or morals or conduct? A. I am saying that in the absence of overt behavior and in the absence of direct proselytizing there is no correlation between a woman's, quote, moral condition as an unwed mother and what happens in the classroom and, in fact, sir, to answer your question, one of the things that I am involved with at Columbia University has exactly to do with what you

have just been suggesting. It was only two weeks ago that we had Dr. Robert Hill, who is the [27] Executive Director of the National Urban League and who has written an excellent piece of work, namely The Strengths of Black Families, which tends to show that far from being a bad thing, that, in fact, this so-called matriarchal society tends to produce some very strong people under the circumstances. Under the circumstances of survival. And therefore I would recommend this particular book to substantiate what I am attempting to say here.

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[28] Mr. Terney:

Q. Your testimony today, then, Doctor, is to the effect that in minority groups, and particularly in the black race, that in the home that there is a need for a strong or dominate parent figure outside of the home that does not exist in the home, is that correct? A. Not necessarily. This is a presumption that has been made. The point that I have been making is this. There are many unscientific and untested hypotheses about the behavior of people. And that we tend to assume that it must be right simply because it is right and it is a part of the Anglo-Saxon, Protestant ethic. And the Anglo-Saxon, Protestant system happens to be one kind of system, which is not necessarily true for all people.

Q. Then, Doctor, do you feel it would be educationally sound, more sound than the situation we have now, for the school districts to employ black teachers for black classrooms? A. (No response)

Q. Rather than a white teacher over a black classroom? A. In my opinion, it would be sound if—given two situations. And assuming that I were the superintendent of a district and I had two people of equal [29] qualifications and where I had a predominantly black classroom and you were asking me which of these two people

would I employ, in my opinion, I would tend to employ the black person. Because that is one other way of producing the kind of climate and the kind of affinity that is necessary for a good psychological atmosphere.

Q. Doctor, we may need to call you in some of our other cases.

Just one or two more questions. You stated that you felt it ineffective and even an adverse method to attempt to teach morals in a school. Now, do you feel this holds true in the younger children—I'm not speaking about college level, I'm speaking about elementary, junior high school and high school level—do you feel that the school district should not even attempt to teach any values or morals in their school? A. What I was saying, sir, was that even if you tried you would not succeed. And I pointed to the reference to state that even in those situations where there has been a deliberate attempt to teach values, the experiments have largely failed.

Q. You are saying, then, the only place that it can come from is the home? A. The main place, the major place from which it comes is the home. By the age of seven a child's [30] character is largely formed. Their habit patterns, their thinking, the conceptualization is formed by the time the child is seven years of age.

Q. But not their system of values and morals, would you think? A. No, I would dispute that, sir. I would think that that is the time when a child largely forms attitudes, values, conceptualizations. There are changes as the child grows, but the most basic part of a child's education is between the years of zero and seven years of age.

Q. Just for my own information, do you know in the black home what the feeling is or what is taught as far as the morals or values are concerned concerning premarital sex?

Mr. McTeer: Your Honor, I don't exactly know what Counsel intends to get from that particular question. I would object. I believe the question is irrelevant.

Mr. Terney: Your Honor, if we are teaching the wrong things at the Drew school we want to know it.

The Court: I will overrule the objection.

The Witness: [31] Your question is, what kind of value system is taught in a black home?

Mr. Terney:

Q. With particular reference to premarital sex. A. I don't think that there is any overt attempt to teach one way or the other.

Q. Well, what is the moral standard in the average black home concerning premarital sex? A. The moral concerning premarital sex? Well, I would think that it all depends on the educational background of the individual. I think the attitudes towards premarital sex tend to change in relation to one's socio-economic and educational status. In fact, the higher up you go in terms of class the more liberal your ideas become.

Q. Right. If I told you that the black community in Drew was very substandard as far as economics are concerned, then what would you tell me that the moral standard in the average black home would be concerning premarital sex? A. They would tend to be even more rigid and more proscriptive than an upper middle class white family.

Q. Right. And you are telling this Court that you do not feel that if the Drew Municipal Separate School [32] District employs an unwed parent of an illegitimate child to teach a classroom of young students, that this has no adverse effect on the child as far as his morals are concerned, even though the employment could be construed as condoning this type of activity? A. Well, you see, sir, there is the implication in what you are

saying of promiscuity. I feel that premarital sex and promiscuity are two different things. If a person is promiscuous and can be shown to be promiscuous, then I would say yes, there would be—

Q. I have already told you we have a problem. The testimony has been there is a very definite problem in this very school district concerning unwed female students that have had to drop out of school because of unwanted pregnancies. A. In my opinion, that has nothing to do with the moral condition of the teacher. It has nothing to do with the fact that a teacher has had a child. Because what I am saying is that, really, we are not talking about that fact. What we are talking about is the fact of the intermediary, that is, contraception. The difference between an upper middle class teacher who cohabits and who gets away with it is the fact that she has access to the pill.

Q. But the children don't know that. The [33] illegitimate child is a living example of his or her past conduct.

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[34] Mr. Terney:

Q. From teaching positions. A. I would like to think about that.

Q. Do you believe homosexuality is moral or immoral conduct? A. As I say, I would like to think very hard about that one.

Q. You don't want to answer my question at this time, is that right? A. That's right.

Redirect Examination

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[35] Q. Have you ever heard in your educational experience of a rule of this nature? A. No. In fact, I think it is inconceivable.

The Court: Have you ever taught high school?

The Witness: Oh, yes, sir.

The Court: You have had high school teaching?

The Witness: Oh, yes, sir. Both in England and in Canada. I have also been the Supervisor of Teachers in practice in San Francisco.

The Court: What about elementary?

The Witness: Been vice principal of an elementary school.

The Court: [36] All right.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION

(Title Omitted in Printing)

The following proceedings were had in the United States District Court, Northern District of Mississippi on March 20, 1973, before the Honorable William C. Keady, Chief Judge, at Greenville, Mississippi.

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[2] BETTY BARNES (WITNESS FOR PLAINTIFFS), being first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Walls:

Q. Would you state your name, please. A. Betty Jean Barnes.

Q. Where do you live? A. Drew, Mississippi.

Q. How long have you lived in Drew? A. Thirteen years.

[3] Q. Can you speak up a little louder. A. Thirteen years.

Q. Do you presently work in Drew? A. No.

Q. Have you had a job in Drew? A. As a substitute teacher, yes.

Q. Where did you teach? A. Hunter Junior High School.

Q. Hunter Junior High. Is that school under the jurisdiction of Mr. Pettey, the Superintendent? A. Yes. Right.

The Court: You say substitute teacher. That is not a teacher's aide?

The Witness: No. I was in a teacher's position.

The Court: Now, how old are you at this time?

The Witness: Twenty-four.

The Court: Thank you.

Mr. Walls:

Q. Miss Barnes, do you have a college degree? A. Yes, I have.

[4] Q. Where did you receive your college degree? A. Jackson State College, Jackson, Mississippi.

Q. Do you have a teaching certificate? A. Yes, I have.

Q. When did you receive that certificate? A. When? September of '72.

Q. Are you a licensed teacher under the laws of the State of Mississippi? A. Right.

Q. And why did you seek employment as a substitute teacher? A. Well, I wasn't able to—why did I seek employment? Well, I wanted to work and at the time substitute teacher was available.

Q. When did you first apply? Did you have to apply for the job? How did you get it? A. Yes, I applied for substitute teacher at the Drew High School.

Q. Did you fill out an application? A. At Hunter Junior High, no, but at A. W. James Elementary I did.

Q. Okay.

Will you tell us what process you went through to do that. A. Well, my name, address, education and [5] marital status—

The Court: Excuse me. At the elementary school, did you apply for the position of substitute teacher?

The Witness: Teacher's aide and substitute teacher.

The Court: Both?

The Witness: Right.

The Court: All right.

The Witness: Do you want me to tell you—

Mr. Walls:

Q. Now, what did you put on the application? A. Marital status, single and no dependents.

Q. You put no dependents? A. Right.

Q. Do you, in fact, have dependents? A. Yes, I have.

Q. Who are they? A. I have one son.

Q. A son? A. Right.

[6] Q. Now, were you subsequently hired in any manner? A. Not at A. W. James Elementary, no. At Hunter Junior High I was. At Hunter Junior High I was, but not at A. W. James.

Q. And you testified you did not fill out a formal application at Hunter Junior High? A. Right.

Q. How were you hired there? A. Well, the Principal was—knew that I had finished school and—let's see. How did I—

Q. Did he ask you or did you ask him? A. About the substitute position?

Q. Yes. A. Yes, I did.

Q. You asked him? A. Right.

Q. How long did you substitute? A. From—off and on from December through February.

Q. Which year?

The Court: This past December to February?

The Witness: Right.

[7] Mr. Walls:

Q. What year was that? A. December of '72 to February of '73, off and on.

Q. Are you substituting there now? A. No.

Q. Why? A. Well, I was informed that I—my services was no longer needed because of the fact that I had a baby.

Q. Who informed you that? A. My sister works at the school, and the Principal told her to tell me at the time. I was not called in direct and told.

Q. Now, how did that procedure work? How were you asked to substitute like? How did you know you were supposed to work on a given day? A. Well, I was called.

Q. Called by telephone? A. Right.

Q. To come in and work? A. Right.

Q. Now, have you been called any since that time? A. Since February of '73?

[8] Q. Yes. A. No.

Q. I mean since you were told that you could not work. A. No.

Q. During the time you worked as a substitute teacher, did anyone express any dissatisfaction with your work? A. No.

Q. Did anybody make any complaints about your work? A. No.

Q. Do you know of any other reason why you are not substituting now other than the fact you have a child and are not married? A. No.

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[9] Q. Well, why haven't you made application at all as a permanent teacher? A. Just—well, because

I—at the time of employment—at the time that they were employing, I was not available. And the reason that I haven't applied for a permanent position now is because of the fact that they know that I have a child and my substitute teaching position was terminated. So I felt that if I couldn't substitute then I was sure I couldn't have a permanent position.

Mr. Walls: May I indulge the Court?

The Court: All right.

Mr. Walls: We have no further questions.

Mr. Terney: May I proceed, Your Honor?

The Court: Yes, sir.

Cross-Examination

By Mr. Terney:

Q. Now, you stated that you filled out an [10] application for a substitute teacher and teacher's aide? A. Right.

Q. At the elementary school in Drew? A. Right.

Q. And you falsified that application? A. No, I didn't falsify it.

Q. Well, did you tell the truth on it? A. Are you saying because I put no dependents?

Q. Yes. A. Well, if you would call that—

Q. Falsifying? A. Lying—if you call that falsifying, then I did.

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[12] Q. But it did have a place on the one that you say you filled out for your marital status, among other things, and the number of dependents. Now, did you interpret that to mean the number of children that you had? A. Dependents. The number of dependents.

Q. What did you think that dependents meant when you filled out that application? A. The people who were dependent upon me.

Q. All right. Would that mean your child? A. I'm not counting my child dependent.

The Court: What was that? What was your answer?

The Witness: My child—I didn't carry my child as a dependent.

Mr. Terney:

Q. Where is your child? A. Where is he?

Q. Yes. A. At home.

Q. Lives in the house with you? A. (Witness moved head up and down)

Q. Are you presently unmarried? A. Right.

Q. You have one child? [13] A. Right.

Q. How old is the child? A. Seven months. Six and a half months. But this doesn't look like it.

Q. So you didn't think number of dependents on the form meant children? A. Well, I figured it meant dependents.

Q. Is your child dependent upon you? A. Dependent upon me?

Q. Yes. A. (No response)

Q. Who supports the child? A. (No response)

Q. Does the father support the child? A. No, he doesn't.

Q. Do your parents support the child? A. Yes. Because I'm not able to provide for him at the time. At the present time.

Q. When you were working, did you support the child? A. Well, like I said, I worked off and on. So you couldn't very well expect me to support the child working one day at a time every now and then.

Q. Are you employed now? A. No, I'm not.

[14] Q. Were you employed anywhere before you made application at the Drew school? A. No.

Q. When did you graduate from Jackson State? A. May of '72.

Q. And you haven't worked since that time except as a part-time substitute teacher at Drew? A. (Witness moved head up and down)

* * *

[17] Q. Has any official, Principal, Superintendent, Assistant Principal, Assistant Superintendent, anybody charged with the employment of substitute teachers, have [18] any of these people ever told you that you are not now eligible to teach at Drew schools as a substitute teacher because of your marital status and the fact that you have a child? A. And have I discussed this with them?

Q. Have they told you? A. Oh, yes.

Q. Who? A. The Principal.

Q. When did he tell you this? A. Well, he told me after the last of my substitute teaching.

Q. After the 19th or 20th of February? A. Right.

Q. Did he call you to the office? A. No, he didn't. I mean, he—let's see. How did I—

Q. He what? A. Are you saying after—

Q. I would just merely like to know when the Principal told you that you were no longer eligible to teach at Drew. A. And you are saying how did I get the information from him? Was it over the phone or in the office?

[19] Q. That's right. A. Well, I went in. I went—he told me by mouth, but I am trying to say how.

Q. Was it in his office? Did he call you into the office? A. No.

Q. Which principal was it? A. Langdon. Mr. Langdon.

Q. Langdon? A. Right.

Q. He told you directly? A. Right.

Q. Do you recall exactly what he told you? A. No. Other than I was—could no longer do substitute teaching.

Q. And did he tell you why? A. That the fact that Mr. Pettey had told him that I could no longer be used because of the fact that I had a child and wasn't married. That's the only thing he said.

* * *

[20] VIOLET BURNETT (WITNESS FOR PLAINTIFF), being first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Walls:

Q. Would you state your name, please. A. Violet Burnett.

Q. Where do you live? A. Drew, Mississippi.

Q. Can you speak a little louder? A. I live at Drew, Mississippi.

Q. How long have you lived in Drew? A. Twenty-three years.

Q. Twenty-three years? A. Twenty-three years.

Q. Is that all your life? [21] A. All my life.

Q. Do you presently work in Drew? A. No.

Q. Have you ever had employment in Drew? A. Yes.

Q. Where was your last place of employment? A. As a teacher's aide in A. W. James Elementary.

Q. As a teacher's aide? A. Yes.

Q. How long did you work as a teacher's aide? A. From September of '71 to May of '72.

Q. May '72? A. Yes.

Q. Tell us how you obtained that job. A. Well, I was told by one of the teachers that—to go fill in an

application for teacher's aide position. And I was hired by Mrs. McCorkle.

Q. By Mrs. McCorkle? A. Mrs. McCorkle was supervisor.

Q. Did you fill out a formal or written application? A. Yes, I did.

Q. Now, what information did you enter on that application? [22] A. Name, address and so forth. Number of dependents, which was—I put two.

Q. Who were these two dependents? A. Myself and my daughter.

Q. Your daughter? A. Yes.

Q. Did you indicate your marital status? A. Yes. Single.

Q. You put single? A. Single.

Q. Were you hired at that time? A. Yes, I was.

Q. Was Mr. Pettey the Superintendent at that time? A. Yes, he was.

Q. And did Mrs. McCorkle at that time work for Mr. Pettey? A. Yes.

Q. And you worked from September '71 to May '72? A. Yes.

Q. Why are you not working now? A. Because I was told by Mrs. McCorkle that Mr. Pettey say we could no longer be hired because we had kids. All people that had kids and was not married could no longer be hired under Title I.

[23] Q. At the time you worked, from September '71 to May '72, did you receive any complaints about your job performance? A. No.

Q. What were your duties as a teacher's aide? A. Well, to take the kids to lunch—well, recess first, take them on the outside and let them play, bring them back in, get them washed up for lunch, take them outside again, bring them back, take my break, take them out to different

classes, music and art, and after that take [24] —they would have another recess, go out again and come back. And then have another class at 2, get them ready to go home.

Q. How old were these children? A. Five and six.

Q. What grade? A. First.

Q. Who spent more time with the students, you or the teacher? A. I did.

Q. Is that because of your status as a teacher's aide? A. Yes.

Q. Did anybody make any complaints about your job performance? A. No.

Q. Did anybody say that you were immoral at the time? A. No.

Q. Between September '71 and May '72? A. No.

Q. Did anybody give you any reason, other than the fact that you had a child and were not married, for your termination? A. No.

[25] The Court: How old was this child when you went to work?

The Witness: How old was my child?

The Court: When you went to work.

The Witness: Four years old.

The Court: At that time?

The Witness: Four years old.

The Court: Where were you then living?

The Witness: With my mother.

The Court: With your mother?

The Witness: Yes.

The Court: Who else was living in the house besides you and your mother and the child?

The Witness: [26] My father and my one brother and other four sisters.

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[28] Q. Miss Burnett, do you attend church? A. Yes, I do.

Q. What do you do in church? Do you teach any Sunday school classes? A. Not now.

Q. Have you taught Sunday school classes? A. Well, approximately three years ago I taught Bible class every Wednesday night.

[29] Q. And what kind of students did you teach? A. Some 16 to 18.

Q. Did you have your child at that time? A. Yes, I did.

Q. Did anybody in the community ever express any intention of having you discontinue this teaching because you had a child? A. No.

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[30] *Cross-Examination*

By Mr. Terney:

Q. How many children do you have now? A. One.

Q. Have you ever been married? A. No, I haven't.

Q. How old is this child now? A. She is five.

Q. Five years old.

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[31] Q. Well, do you personally feel that it's moral or immoral for an unmarried person to have sexual intercourse? A. I feel like as an individual a person can do whatever they want to, they has the freedom to do anything they want to as long as it's not hurting anyone but—I mean, if it's going to hurt at all.

Q. This is the way you felt about it when you were 17, when the child was born? A. No. I mean—well, yes.

Q. And that is the way you feel about it today? A. Uh-huh.

Q. You haven't changed your mind? A. No, I haven't.

Q. Do you intend to have any more children? A. No, I don't.

Q. Outside of wedlock? A. No, I don't.

Q. Why? [32] A. Because taking care of one is hard enough.

Q. Well, do you feel that it would be wrong for any of the students at the Drew High School to engage in sexual intercourse?

Mr. Walls: Objection.

Mr. Terney: Your Honor, I think it is very relevant.

The Court: Overruled. I will hear the answer.

The Witness: I feel like if that's what they want, they can do it. That's just the way I feel.

Mr. Terney:

Q. In other words, if you were teaching at Drew and some school girl came up to you, 13, 14, 15 years old, and she looked up to you as a teacher and asked you, said she really had a big problem, she wanted to discuss it with you, she wanted to have sexual intercourse with her boyfriend, you would tell her, "It's all right, go right ahead"? A. I would tell her if that's what she wanted and she felt like that's what she wanted to do, go right ahead.

Q. And you stated that you had more contact [33] with the children than the teacher? A. Yes, I do.

Q. Direct contact? A. From 8 o'clock to 3:30.

Mr. Terney: No further questions.

The Witness: Except for maybe—well, one hour and thirty minutes.

Mr. Terney: No further questions.

The Court: Any redirect?

Mr. McTeer: Yes, Your Honor.

Redirect Examination

By Mr. Walls:

Q. Miss Burnett, did any students ever ask you any questions like that at school? A. No, they didn't.

Q. Have you known any students to ask any other teachers questions like that at school? A. No.

Mr. Walls: No further questions.

LESTINE ROGERS (FOR PLAINTIFF)

[34] *Direct Examination*

By Mr. Walls:

Q. Would you state your name, please. A. Lestine Rogers.

Q. Where do you live? A. I live in Drew, Mississippi.

Q. How long have you lived in Drew? A. All my life.

Q. All right.

Miss Rogers, you are one of the plaintiffs in this lawsuit, are you not? A. Yes.

Q. Why did you file this lawsuit? Why did you have your attorneys file this lawsuit? A. Because I feel that as long as I am qualified to hold a position, no one can tell me I can't have the job if I'm qualified just because I'm an unwed [35] mother.

Q. Now, did you teach in the Drew school system or work as a teacher's aide in the Drew school system? A. Yes.

Q. Would you give us the dates and times? A. I worked from September of '71 till May of '72.

Q. How did you make application? A. I was told by one of my friends had already filled in an application, I went over to Mr. Crosthwait's office to fill one, and I filled it out and I was recommended by Mrs. McCorkle.

Q. All right.

Now, what information did you place on that application? A. Your name, your address, your marital status, your number of dependents and other junk.

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[36] Q. Why were you fired at school? A. Because I was unwed mother.

[37] Q. How do you know that was the reason you were fired? A. Because no one else complained of the work that I was doing, and Mrs. McCorkle told me that Mr. Pettey said so.

Q. Said what? A. Said that he could no longer use me because I had a child and wasn't married. She told me that Mr. Pettey said that.

Q. Did Mrs. McCorkle know at the time she hired you that you had a child and were not married? A. Yes, she knew. 'Cause she asked me, "Are you married?" I said, "No." She said, "But you have a child?" I said, "Yes." She said, "Well, Mr. Pettey says if you are not married and have a child he can no longer use you in the school system." I asked her why. She said, "That's not my rule, that's his rule."

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[38] Q. Now, let's go back to August of '71, at the time you were hired. Did Mrs. McCorkle know that you had a child and that you were single? A. Yes, she knew.

[39] Q. How do you know she knew that? A. Because I put it on the application and she—I knew she read my application before she hired me.

Q. Now at the time you worked, did anybody make any complaints about your work? A. No.

Q. Do you know of any other reason that you may have been fired other than the fact that you had a child and were single? A. No.

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[41] Q. As a matter of fact, you were pregnant at the time you were informed that you would not be reemployed for the 1972-'73 school year, weren't you? A. Yes.

Q. Have you ever been married? A. No.

Q. Do you intend to get married? A. I don't know.

Q. Now, you were a teacher's aide in what grades? A. I was special education, ranged from classes first through fifth.

Q. What age group were those children? A. I had them from eight till 18.

Q. Eight till 18? A. Yes.

Q. Did you have direct contact with those children? In other words, were you right there with them in the classroom, and outside and so forth? A. Yes. I had to stay with those children from 7:30 in the morning till 3:30 in the afternoon.

Q. Did they ever talk to you, or seek advice [42] from you or anything? A. Yes.

Q. They would come to you with their problems and so forth once in a while? A. The problem involving classwork. No other problem.

Q. But you did have a relationship with them where they would talk to you, and you would talk back to them, and they would discuss certain problems with you? A. Yes. Concerning classroom work.

Q. Were any of these children aware that you were pregnant at the time? A. No.

Q. Were any of these children aware that you had a child at home? A. Yes.

Q. Did they know, also that you had never been married? A. I don't know.

Q. Who did you live in the house with? A. My parents.

Q. And who else lives in that house? A. Sister and brothers.

Q. You stated that you weren't the sole support of your children. Who assists you in supporting [43] them? A. My parents.

Q. Are you receiving money from the welfare? A. Yes. For one.

Q. You then became pregnant while you were teaching, is that right, with the second child? A. Yes.

Q. Now, what is your feeling about the moral issue? Is it right or wrong for you or for any individual to have sexual intercourse and not be married? A. Well, I can't say it's right and I can't say it's wrong. Because I think it's left up to you as long as you are not hurting anyone else. I think you should do whatever you feel is right.

Q. Do you intend to have any more children? A. I don't know.

Q. Haven't decided? A. No.

Q. But you may have more children, even though you are not married? A. I don't know.

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Q. • • • [44] boyfriend and she asked you what you thought about it? A. Well, I have never had one to ask me, so in that case I wouldn't know.

Q. But if she did. If she came up to you while you were teaching. A. Like I said, I wouldn't know because—

Mr. McTeer: Your Honor, I think the witness has answered the question.

The Witness: —they have never asked me, so I haven't thought about it.

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Mr. Terney:

Q. Do you have an opinion whether it is right or wrong for a 15-year-old unmarried female student in the Drew public schools to have sexual intercourse with her boyfriend? [45] A. I don't know. It's left up to them to decide.

Q. Left up to them. You wouldn't help her out at all if she asked you?

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[47] *Redirect Examination*

By Mr. Walls:

Q. How long have you been on welfare? A. Well, my child will be on for about a year and a half.

Q. Do you receive welfare for yourself? A. No.

[48] Q. Just for your children? A. Yes. For one.

Q. If you were working, would there be any need for your children to be on welfare? A. No.

KATIE MAE ANDREWS (FOR PLAINTIFF)

[49] *Direct Examination*

By Mr. Walls:

Q. Will you state your name, please. A. Miss Katie Mae Andrews.

Q. Where do you live? A. Post Office Box 22, Drew, Mississippi.

Q. How long have you lived there? A. Twenty-three years.

Q. Miss Andrews, do you hold a college degree? A. Yes. I'm a graduate of Mississippi Valley State College in Itta Bena, Mississippi.

Q. And do you hold a teaching certificate? A. Yes, I do.

Q. What does that teaching certificate mean? A. Well, it means that right now that I can receive a job anywhere in the State of Mississippi or out of the State and I wouldn't have to go back to school until five years. It states on there that that's my five-year certificate and after five years you have to return to school.

Q. What process did you go through to get that certificate? A. Well, I had to work hard to get there.

Q. What are the qualifications for receiving [50] the certificate? A. Qualifications for receiving the certificate, I had to earn a total of 128 semester hours.

Q. Now, when you received that certificate from the State of Mississippi—is that where you received the certificate? A. Yes.

Q. Was there any requirement that you be married or that you—if you had a child that you be married? A. No.

Q. Did they have any qualifications dealing with the fact of having children? A. No.

Q. Do you have a child? A. Yes.

Q. And you stated you are not married? A. Right.

Q. How old is your child? A. He is four.

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[52] The Court: Did you apply for a teacher's aide position?

The Witness: I applied for a teacher's aide position.

The Court: All right.

Mr. Walls:

Q. Did you also apply for a teaching position? A. No, I did not apply for a teacher's position because the way I knew about this position, I was [52] sent there.

Q. Now, you made formal application for the teacher's aide position? A. Right.

Q. Okay.

What was the result of that application? A. Well, you didn't even need to be a college graduate in order to get the position.

Q. What I mean is, did you hear from the application? Were you hired? A. No, I did not hear from her.

Q. Were you hired? A. Well, she told me she would let me know when I could come in and begin work. So I took it from there that I had the job.

Q. Well, why didn't you go in? A. Well—now, would you ask that again?

Q. Why didn't you go in? Do you know why she didn't call you? A. Well, coming right up to the date that I felt that I should have taken the position, I decided to call her. And when I called her, she said, "Under Mr. Pettey's rule, you cannot work and have a child." And I said, "Thank you."

Q. Now, why did you apply for a teacher's aide [54] job and in fact you are a college graduate and have a teaching certificate? A. Well, at this particular time and at this time of the year, coming out of school, it's hard to get a job. So any job would do, you know, until I could find a job in my field, which that would have been a job in my field, elementary teaching.

Q. Now, did you have intentions of applying for a permanent teacher's job in the Drew Municipal Separate School District?

Mr. Terney: Your Honor—

The Witness: Yes.

Mr. Terney: —we object to the leading of the witness.

The Court: Refrain from leading, Counsel.

Mr. Walls:

Q. Do you intend to apply for a teacher's job? A. Yes.

Q. Have you made any applications for a teacher's job? A. No, not for a teacher's position. See, it's [55] like this. If you file an application for a teacher's aide and if a job should happen to come up, you know, as a teacher's position, then they could consider me from that point.

Q. And you stated that you were not hired as a teacher's aide? A. No.

Q. Do you expect to be hired as a teacher in Drew? A. Well, if possible, yes.

Q. Why do you want to teach? A. Well, I feel it would be close around home and I could help my mother, because she have helped me, you know, this far.

Q. Well, now, you have gone to school to become a teacher. Why do you want to teach? A. Well, I feel that I can help small children, you know, through the process of learning, reading. And I enjoy working with children.

Q. Did you go to school to become a teacher? A. Yes, I did.

Q. Are you presently working? A. Yes.

Q. Where are you working now? A. Baxter Laboratories, Cleveland, Mississippi.

[56] Q. What type of work is that? A. Factory work.

Q. Do you prefer factory work over teaching? A. I would prefer teaching.

Q. Why? A. Because I only accepted the job working in a factory to help me get out of school. And it's hard work and I don't intend to do hard work, you know, if I can help it.

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Cross-Examination

By Mr. Terney:

Q. When did you receive your degree from Mississippi Valley State College? A. Well, actually, I finished on my student teaching in Mound Bayou—Montgomery in Mound Bayou, [57] Mississippi—November the 13th. And I would not proceed in another course of action until May. That's when my graduation would take place.

Q. Do you now hold a degree? A. Yes, I do. A Certificate.

Q. A degree from Mississippi— A. Well, it's the same to me. It would be the same.

Q. What is the certificate? A. An A Certificate.

Q. Well, that's a teaching certificate. A. But to me that's the same as receiving a degree. Only thing I have to do is march.

Q. Oh, I see. A. You don't have to march.

Q. You haven't received your diploma, but you have completed the number of hours? A. Right.

Q. When did you complete the number of hours? A. November 13th, 1972.

Q. Have you ever taught school? A. Yes.

Q. Where? A. I have substituted when I would come home as my freshman year in school at Hunter High as a substitute [58] teacher.

Q. Did you have a child at that time? A. No, I did not.

Q. Didn't have a child? A. And substitute teacher at Eastside High School in Cleveland, Mississippi. I did my student teaching at Montgomery in Mound Bayou, Mississippi.

Q. So all that is left for you to do is walk down the aisle in May of this year and you receive a diploma? A. Right. And you do not have to walk down the aisle to receive it. Just pay your money and that's it.

Q. All right.

Will that degree be in education? A. Sure.

Q. When was your child born? A. January the 30th, 1969.

Q. And where were you at the time the child was born? A. I was in St. Louis, Missouri. I don't see where that has anything to do with it.

Q. You were living in St. Louis? A. Right.

Q. When the child was born. Where do you live [59] now? A. I live at P.O. Box 22, Drew, Mississippi, with my mother Eloise Andrews.

Q. And who else lives in the house with you? A. My sister, Marjorie Franklin, my brother, Freddy Dale Andrews, and my other brother, Bob Dale Andrews.

Q. Have you ever been married? A. No, I have not.

Q. Do you intend to marry? A. Well, I intend to marry when I meet the right person to marry.

Q. Do you intend to have any more children before you get married? A. Not until I get married. I didn't plan this one.

Q. Do you feel that it's wrong that you have a child out of wedlock? A. No. I mean, God put us here on earth and if it came up to that I feel that we should have them, you know. If we try to get rid of it, as most people do, that's killing it. Well, you know where we would wind up then. So I don't feel it's wrong, you know. I don't say it's right to just go around and just keep having them, you know. But if one mistake can hurt for once in life, you [60] know, everybody can go through one mistake.

Q. Well, do you believe it's wrong to have sexual intercourse before you marry? A. Well, I can't say it's wrong and I can't say it's right. Because I know—I mean, whatever desire you have, I know you aren't

going to—I mean can't anybody force anything upon you. I'll put it like that.

Q. Do you go to church? A. Yes.

Q. What are your religious beliefs about whether it's right or wrong? A. Well, it's wrong, but you can go to the altar and repent. The Bible say repent. It's a sin. You can repent for your sin and be forgiven.

Q. Have you engaged in sexual intercourse since the child was born?

Mr. Walls: Objection, Your Honor.

The Court: I sustain the objection.

Mr. Terney:

Q. Do you feel it's right or wrong for a school-age child, say a child of 15 years of age, female student at the Drew public school, to have sexual intercourse with her boyfriend outside of the marriage? [61] A. I wouldn't know. You know, I mean, I couldn't feel it's wrong or not because I wouldn't be around them and I wouldn't be dealing with children at the higher level. I would only be dealing with the children one through eight grades. My children would say—

Q. Well, if an older student came to you because you were a teacher in the system and asked you whether you thought it was right or wrong; what would you tell them? A. I wouldn't know what to tell them because I don't think they would come to me because I wouldn't be over there where they are. I would be in the lower level. And at the lower level it's one through six.

Q. You graduated from Drew High School, didn't you? A. Hunter High School, Drew, Mississippi. Drew High School.

Q. What year was that? A. 1967.

The reason I can't say it's wrong, because the time I was going to school I knew of a whole lot of children

was pregnant and the teachers didn't have anything to do with it. So you can't say the teachers engage in this.

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[63] Mr. Terney:

Q. You stated that your pregnancy was unplanned. A. It was unplanned.

Q. So it's conceivable that you could become pregnant while you were teaching, isn't it? A. During the time I became pregnant, as you say, black people wasn't aware of the many things that the white person would use in order to keep from getting pregnant. So if I had had all this counseling like, you know, maybe a parent that knew more about this, as a white person did, then I would say no, I wouldn't become pregnant at that time and no other time.

Q. Now, you filled out an application for Mrs. McCorkle when you applied for a teaching aide position, didn't you? A. True.

Q. And that application had a place for your marital status. And you put single? A. I put single and no dependents.

Q. No children. A. No children, either way.

[64] Q. And you knew what that meant, didn't you? A. I knew what it meant. I mean, but, as I told you, I knew the rule before I went over there.

Q. How did you know the rule? A. Because I came in contact with many people. Said, "Do not place an application at Hunter Elementary or A. W. James, whatever it is, because under Mr. Pettey rule you cannot work and have a child."

Q. So you lied about it? A. I lied about it, true. I needed a job. I don't want to work in a factory. You wouldn't consider your people to work in a factory all their life.

Q. How many other school districts have you made application to? A. Almost every one in Mississippi, just about.

Q. Do they have a place for your marital status? A. Sure.

Q. What did you put? A. I put single and I put one dependent.

Q. Why did you tell— A. Because this is the only place that that rule is set up at. I don't know of any other school but Drew.

[65] Q. Well, it is conceivable, then, that you may get a teaching position elsewhere, isn't it? A. I'm planning on getting one.

Q. I mean outside of Drew. A. If it have to be outside of Drew. I don't intend to work in the factory.

Q. So you are really not being barred from teaching, are you? A. In a way I am. Because I could be teaching now instead of going up to a factory every night working until 3 o'clock every night.

Q. But come September of 1973 it is conceivable that you will have a teaching job somewhere, isn't it? A. I may have one. I mean, let me explain this to you. I could have a teacher's job now in Alabama. But who wants to go to Alabama when they live in Drew, Mississippi?

Q. How much are you making at Baxter Laboratories? A. I'm making $2.67 an hour.

Q. How much is that a week? A. One hundred six dollars eighty cents.

Q. How does that compare to teaching salaries for the first year in Drew? A. It's less.

Q. Are you sure? [66] A. Yes. It's less, plus hard work. Teachers' starting salaries for I think this year or this past year was 65 or 6,000. Either one of the two. And the salary I'm making now, that's the whole

year. And the salary I will be making then, that's nine months.

Q. You have to go back to school from time to time, though, don't you? A. Five years. I plan on having my master's degree by that time.

Q. When are you going to school, in the summer? A. I plan on it.

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[67] A. I don't know.

Q. Would you want someone working for you that had made a material misrepresentation on an application? A. Sure. That's the only way they could get the job.

Mr. McTeer: Objection.

The Court: When you object, please rise, Counsel.

Mr. McTeer: Yes, Your Honor.

The Witness: If that's the only way they could get the job, by lying, sure.

Mr. Terney:

Q. Even though they were working for you? A. Right. They have got to make the money somewhere so they can feed their children.

Q. Are you getting any assistance from the welfare department? A. No. It's too less to even try to get. What is $30?

Q. Are you the sole support of your child? A. No, my mother is.

Q. You contribute to it, I assume, with the [68] money you are making? A. Well, I assume I will, yes.

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[70] FANNIE LOU HAMER (FOR PLAINTIFF),

being first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. McTeer:

Q. Good morning, Mrs. Hamer. A. Good morning.

Q. Would you please state your full name. A. Fannie Lou Hamer.

[71] Q. Where do you live? A. 721 James Street, Ruleville, Mississippi.

Q. How long have you lived in the Ruleville-Sunflower County area? A. Fifty-three years.

Q. Now, Mrs. Hamer, you must excuse my youth, but for the record, would you please state some of your involvement in the civil rights movement, please. A. Well, I have been involved in the field of civil rights, in the field of human rights since 1962. I started off in 1962 in voter registration, and I have worked from that time until now in different areas. And especially in Sunflower County.

Q. I see.

Mrs. Hamer, could you tell me a little bit more about your involvement in school desegregation and your involvement with teachers and students also. A. Well, I have worked in Sunflower County on the biracial committee with the desegregation plan in Sunflower County.

Q. Mrs. Hamer, would you please just state for the record of the Court just a few of the honorary degrees that you have received for your involvement in humanitarian activities. A. Well, in 1969 I received the honorary doctor [72] of humane letters from Tougaloo College. In 1969, I received the doctor of humanities from Shaw University, Raleigh, North Carolina. In 1970, I received the doctor of humane letters from Columbia College in

Chicago, Illinois. In 1972, in June, I received the doctor of humane letters from Howard University, Washington, D.C. And I have been on the faculties teaching black contemporary studies at Raleigh, North Carolina, Shaw University.

Q. Thank you.

Mrs. Hamer, would you please state for the record, also, just a few of the national organizations that you are a member of or member of the board. A. I am a member of the National Council of Negro Women, National Association for Advancement of Colored People.

Mr. McTeer: Your Honor, on the basis of this information, I would like to attempt to qualify Mrs. Hamer as an expert on the sociological and political thoughts of black people in the Sunflower County region. Undoubtedly, Your Honor, there is no black person in Mississippi or in the Sunflower County region who can talk more specifically, exactly on point as to exactly what the black people's feelings are in Sunflower County than the woman sitting in the chair.

The Court: [73] Do you wish to conduct a voir dire on her qualifications?

Mr. Terney: Yes, Your Honor.

The Court: You may do at this time. Limit it to the issue, however.

Voir Dire

By Mr. Terney:

Q. What exactly is the biracial committee for the Sunflower County school district? A. It was—the biracial committee was asked to form in the desegregation plan by Judge Keady a couple of years ago, and I was a part of that biracial committee, was elected from the Sunflower County—not the Drew separate district, but the Sunflower County biracial committee.

Q. Did you ever meet with the committee? A. Yes, I did.

Q. How many times? A. As long as it met.

Q. How many times did it meet? A. Well, I don't know. I didn't keep record of just how many times it met, but I was a part of that committee. I met with that committee from the first time [74] it met, you know, until it—you know, as long as it existed.

Q. But it didn't meet over one or two or three times at most? A. Well, it wasn't a bunch of times, but I was a part of it while it did last.

Q. Have you ever had any direct contact with the parents or students in the Drew public schools? A. Well, no more than working in Drew and doing voter registration. I know quite a few people in Drew because part of my family is in Drew.

Q. Now, voter registration was back in what 1962? A. But I still go to Drew. I go to church in Drew, I know people in Drew, I go to Drew now.

Q. How much time do you spend in Sunflower County now? Most of your time? A. Most of the time.

Q. Haven't you in the past traveled a good bit? A. Yes, I did do traveling. But I would be at home and I was always at home when I was needed in Sunflower County. All they had to do is to tell me when I was needed and I was right there. Because that's home.

* * *

[76] Q. Are you here today because you feel that you can speak for the entire black community or at least the majority of the black community in Sunflower County? A. Yes, I am here because I feel, and not only feel but believe that the black community would agree, and all of them that I have talked with and, in fact, two rode over here this morning with us because

they are concerned too, as we were, that we all agree that these young womens are not really on trial. You are trying all of us. Because when you say we are lifting ourselves up and you tell us to get off of welfare, then when peoples try to go to school to get off of welfare to support theirselves, this is another way of knocking them down. So we are here because we really don't like what's happening.

Q. You are here because you think there is a racial question involved, is that it? A. I believe it is.

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[77] The Court: Well, it is within the reasonable discretion of the Court to allow a witness to testify as an expert. I am going to allow Mrs. Hamer to testify.

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Q. Mrs. Hamer, as you heard yesterday, there has been a great deal of talk about the morality of the black community. And I would like to ask you simply at this time how, in your opinion, does the black community feel about unwed mothers? A. Well, it's quite a few people, black people in Sunflower County that have young people that's not married with children. But these are still our children. And we still love these children. And after these babies are born we are not going to disband these children from [78] our families, because these are other lives, they are—God breathed life into them just like he did into us. And I think these children have a right to live. And I think that these mothers have a right to try to support these children in a decent way.

Q. You think, then, that the black community has one point of view about children who are the progeny of unwed parents as opposed to what the white community thinks about the children of unwed parents. Can you tell me what the difference is, what the white community

thinks about unwed parents as opposed to what the black community thinks? A. Well, being a person who have worked from I would say the ground, I worked for white people for years, I worked in their house, I worked in the kitchen, and I know what's going on. And if justice was really done it wouldn't only be black women in here, it would be a whole lot of young white folk in here too. So what I am saying is I think it is being—the people that's being treated unjust—and this would almost be funny to me if it wasn't so serious.

Q. Well, how do people in the white community, from your experience, take care of their unwed *children*?

Mr. Terney: Your Honor, I don't believe she has been [79] qualified as an expert—

The Court: No, she is qualified, really, as a sociologist from the black point of view. That is what the Court would like to hear.

I would like to restate your question. In the black community—

The Witness: Well, I—

The Court: Just a moment. In the black community, is there any morality issue in having an unwed *child*? That is the question.

The Witness: Well, let me say this, Judge Keady.

The Court: All right.

The Witness: After a child is born, I don't think that people should be treated like a outcast.

The Court: No, that is not the question. But in becoming a parent out of wedlock, is that frowned on, looked down on, or is it encouraged and approved?

The Witness: [80] It's not encouraged. But people are not looked down on.

The Court: I see.

The Witness: It's not encouraged.

The Court: All right.

Mr. McTeer:

Q. What would be the effect, in your opinion, of this rule upon young black people in the Sunflower County area? A. Well, it would be quite a few people, quite a few young people lose their jobs, because I know so many young women that after having one child go back to school, finish school and yet not marry, but try to better theirselves by getting a good job so they can support their children without becoming a ward of the welfare. And this is really going to be a blow to them.

Q. What do you think will be the result when young black women who have tried to get themselves back through school, suddenly—after having gotten through school, rather, and having gotten a degree, they find themselves without a job because of the fact that they have an unwed *child*? What will be the effect to these young mothers, [81] to your understanding? A. It will be a terrible blow not only to these young women but it will be a terrible blow to all of us, not only in Sunflower County but across the State of Mississippi, across the United States where people are trying to lift theirselves out of certain things and bring theirselves up to a level where they can support theirselves and their child.

Q. What do you think will be the effect upon the child, the children of the unwed mother? A. Well, this is saying to the child that it, too, is not fit.

And you know, when I think of this—may I say this, Judge Keady? I think about the story of Jesus Christ. I think of what would have happened to Virgin Mary if she walked into Drew separate school, what would have happened if Christ had been born in that school. What would have happened? We are dealing with human being.

Q. Mrs. Hamer, I know that in your own life this particular question touches very close to home. Could you tell the Court about why it touches so close to home

in terms of your own life. A. Well, for one thing, I will talk about my daughter. I had two children, adopted children, Vergie and Dorothy Jean. And during my traveling around, Dorothy Jean [82] become pregnant. She was 21 years old. And one of my friends, a white friend in California, told me, me traveling, it might affect my reputation for her to have this child at home, and why didn't I send her off. And I told them I would stick as close to her as I could. So I kept her at home. The kid was born the 29th of December in East Bolivar County Hospital, 1965. She died in 1967, my daughter did. And if I had mistreated that child of my daughter, I would have never forgiven myself. I don't think that we have the authority to forgive man. Only God is in that authority. Only God got that power. Man is not to judge man. We don't have that kind of power.

Q. Mrs. Hamer, in your opinion, what do you think the black community thinks about teachers who are unwed mothers teaching their children? A. It's nothing wrong with an unwed mother teaching children. Because I'm sure in Sunflower County that we have some unwed mothers teaching some of those kids.

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[83] Q. Mrs. Hamer, to your knowledge, what do you think the black community's views are in terms of where [84] values are actually created? Are values created in the home or are values created in school? A. Values are created in the homes. You know, my mother and father of one marriage had 20 children. Six girls and 14 boys. And my mother and father taught us without any formal education about dignity and self-respect from the time that we were very small kids until we were grown. And I—you know, I was surprised yesterday to hear the kind of things, you know, like—that black

people don't have any moral and this kind of thing. That's not true. Because they do have. They have moral values. They do care.

* * *

[89] Q. Mrs. Hamer, does the black community feel that a woman has a right to her independent life, women like the plaintiffs in this matter? A. Yes. The black community feel that a woman, if she is not married and especially with a child have a right to make a decent living. And that's why I am here. Because I feel that Miss Andrews and the others have a right to make a decent life for their children. If they are married, then that's a different story. If the husband is able to support the family, that's different. But I do feel, and the black community feel that any woman with children or with a child have a right to lift theirselves and fight. One of the people out there that's in the [90] audience now that wanted to further her education after her child was born, we helped her to go to Mississippi Valley State College.

Q. Who is that person? A. Miss Andrews.

Q. You have known Miss Andrews for quite some time, haven't you? A. Yes, I have known her for some time.

Q. Do you know Miss Andrews' reputation within the community for her good moral character? A. Yes. Because—

The Court: What is it?

The Witness: Well, it couldn't be that bad with just one child. See, a person with a bad reputation to us is people that's standing on the street prostituting and these kinds of thing, selling their bodies and this kind of thing. But a person that have a baby and decide that they want to go to the school to further their education,

to make a decent life, a better life for their children, then I think they have a right to do it.

Mr. McTeer:

Q. Do you think that Miss Andrews and the other ladies, plaintiffs, et cetera, who testified today, [91] do you think the black community thinks that their actions are commendable for taking care of their children? A. Yes, I think it was good for them to try to do something to take care of their children. And everybody else in the community believe the same thing. That's the reason there's other black mothers here this morning.

Q. In other words, then, their actions as per the black community are quite moral? A. Yes.

* * *

Cross-Examination

[92] Q. Are you aware of the problem at Drew concerning the pregnancies of schoolgirls, unwanted pregnancies? A. I'm not aware of how many, no. I'm not aware of how many it is.

Q. Well, as spokesman for the black community and knowing the conditions in the black community, do you see a problem of student-age females becoming pregnant and having to drop out of school? Is it a problem in the black community? A. Well, it be some kids have to drop out of school to have babies.

The Court: Is that a matter of concern to the black [93] community?

The Witness: Well, it is a matter of concern if the kids are too young. But the people we are dealing with this morning are young women.

Mr. Terney:

Q. Well, I realize that. These plaintiffs are over 21. But I am talking about the children 13 to 18 years of age. A. Yes.

Q. Now, it is a problem at Drew, isn't it, of school-age girls becoming pregnant? A. Well, it's a problem with school-age children. That's not only with black children.

Q. No, I realize that. A. It's with white children too.

Q. But it is a problem? A. It's a problem with children.

Q. And it is a growing problem? A. Yes, with children.

Q. Do you have any idea what the solution to that problem is? A. Well, I think maybe more that we should become more active in the schools and visit in the schools, maybe, the parent.

[94] Q. And the schools leading them in the right moral conduct? A. Well, if he—this prove there's something going wrong if he keep them out and still that many people pregnant. Then certainly he not doing what he ought to be doing.

Q. Can't you foresee that if he employs people that have illegitimate children that the students will then think that this type of conduct is being condoned and think that it's all right and it may make the problem—probably would make the problem worse? Can't you see that? A. I don't believe that.

Q. Do you think that a teacher in a classroom has influence over the morals of a student in that classroom? A. Because, you see, I don't believe it's no grownup with any kind of moral would teach a child 13 years old or 12 years old anything wrong.

Q. The mere fact that that teacher has engaged in something wrong, whether she says anything about it, the fact that the child, the student knows that the teacher in front of him or her in class has engaged in sex outside of marriage and the product of that is an illegitimate

child, can't you see that that child would think that that teacher, if that teacher that that child respected engaged [95] in that sort of conduct, that they would infer it's all right for them to do it? A. You know what you have to do if that's what you are going to deal with? When you get back to Drew this evening, lock up the doors. There won't be any school.

Q. Why is that? A. The moral conduct. Nobody would teach.

Q. All the teachers? A. All of them. It might be two not fall out of the sack if that's what you call moral. Two. Lock it up.

Q. You don't have much confidence in the faculty? A. I'm just calling a spade a spade.

Q. Well, what is your opinion as to whether— A. I think people should have a chance not only—you know what Mr. Terney? If this was a young white woman with this same problem, I would come here and fight you the same way, because I would fight for her rights as a woman, as a person fighting for her child, just like these young womens are fighting for the right to take care of their child. You always tell us, we go through this thing with the welfare or we have got so many kids on the welfare roll, "Why don't you get up and do something?" And then when we start doing something, "You don't have any business [96] being that high."

Q. You realize that this rule is not racially motivated. In other words, this is enforced equally against whites and blacks. You understand that, don't you? A. I don't understand that. Because to save my life, is no way on earth that I could believe that every white teacher in Sunflower County is single that there hasn't been a child involved. I don't believe that.

Q. We are talking about Drew now. A. I'm talking about Drew. If there's more than two teaching there single.

Q. Let me ask your opinion. As spokesman for the black community at Drew, do you feel that it's right or wrong for a female student between the ages of 13 and 18 to have sexual intercourse outside of marriage? A. I feel like that they are too young.

Q. You feel that it is wrong? A. I feel that it is wrong.

Q. Do you realize that the rule does not condemn the child? It is the conduct of the parent, whether it's the mother or the father, that the rule condemns. A. But what I'm saying, if this child, you know—it's wrong, and I'm going to teach this child these things before this happen. But if this child should become pregnant, if it's 12 or if it's 13, I wouldn't cast [97] a child out.

Q. The rule doesn't cast the child out. Doesn't ask the child be cast out. It simply says that the parent, whether it is a mother or a father, is not qualified to teach in the Drew public schools. Now, does that, in your mind, deny that individual that would ordinarily have been teaching in that school system employment anywhere? Couldn't they apply to another school district or in another job? A. Well, I just have one question I would like to ask you. Why do they go if they can't work at home? Why do they pick up and go?

* * *

[99] Mr. Terney:

Q. You don't think that a teacher, then, has influence over a child's moral development? [100] A. They have some influence over youngsters. They have some influence. But today young people, as I deal with young people in Sunflower County, and I just want to say this for an example, our Educational Week in Ruleville, I think it was a year or maybe two years ago they—you know, they had speakers to come from different areas, and listen-

ing to the response, you know, how kids responding to different speakers that was there, and you could tell who they related to most. And it really wasn't teachers.

Q. Who was it? A. It was other people. It wasn't teachers. Sometime the teachers don't really reach the kids like, you know, we look for the teachers to teach our kids. But the parent is always closer than a teacher.

Q. What— A. I'm closer to my child than a teacher is.

Q. Of course you are. But what if the parent is missing in the home? That is what I am saying. Who does the child look to then? A. The kid is always—the kid is most of the time—now, maybe after a boy get up a certain age they kind of grasp out for a father. But a house with girls, where a girl is the case, they always tend to go to their mother. They always tend to go to their mother. Whether [101] there is two parent there or not. And kids a lot of time—the reason you having so much trouble in these different schools is by me being a local person and talk a lot to young people and young people talk a lot to me, a lot of time they write some of these professionals off. Because they know them. And it's not because they have had babies. So I think what really should be done—I'm not giving you no advice, but you ought to start listening where you are talking.

Q. Now, you testified earlier on direct examination that you felt there was a difference or the black community felt there was a moral difference in a person, quote, as you said, selling their bodies and prostituting themselves out on the street corner and engaging in the sort of conduct that the plaintiffs apparently have done here. You draw a distinction between the two.

Mr. Walls: Objection, Your Honor. There is no evidence that any of these people have apparently done what he said they have done.

The Court: Rephrase your question.

Mr. Terney: Excuse me, Your Honor.

The Court: [102] Leave out any reference to the plaintiffs. Just make a hypothetical.

Mr. Terney: Yes, sir.

Q. Does the black community differentiate or draw a distinction between moral conduct of the type of prostitution, that is, sexual intercourse for pay, as opposed to voluntary sexual intercourse outside of marriage without pay? A. See, you know, I think, Attorney Terney, this is ridiculous, to be going with this kind of questions and all that we are talking about, that woman should have a right to work in schools if they have got the education to lift theirselves from certain things that are happening in their lifetime, meaning that they have had a kid and they have got a—you know, they have gone to school to get a education to try to support their kids decent. And that's what we are talking about.

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[103] *Redirect Examination*

By Mr. McTeer:

Q. Mrs. Hamer, one short question. You have made some statement as to the difference between having an unwed child as opposed to walking the streets as a prostitute or whatever. But in the black community is the [104] real moral question whether or not a person had intercourse or whether or not a person conceived a child? In other words, does the black community think a person is immoral if a person conceives a child or does the black community think a person is immoral if that person has intercourse again and again and again and again? Which one of the two? A. If a person have a child, you know, I don't think that's immoral and a black community don't think that's immoral. You know, if a person have a child

and, you know, try to do something for the child, it's really no disgrace.

Q. But it's possible, isn't it, that someone can have intercourse again and again and again and again and again and never have a child? A. Certainly.

Q. Now, isn't it that kind of activity that the black community looks down on? A. That's what we look down on. That's the reason I said—may I just add this?

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION

(Title Omitted in Printing)

The following proceedings were had in the United States District Court, Northern District of Mississippi on May 31, 1973, before the Honorable William C. Keady, Chief Judge, at Greenville, Mississippi.

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[16] MAE BERTHA CARTER (FOR PLAINTIFF), being first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. McTeer:

Q. Good morning, Ms. Carter. How are you? A. Fine.

Q. Ms. Carter, would you state, please, for the record, your full name. A. Mae Bertha Carter.

Q. Where do you live, Ms. Carter? A. Drew, Mississippi.

Q. How long have you lived in Drew, Mississippi? A. Seven years.

Q. Seven years.

Now, are you a member of the Drew community? A. Oh, yes, I am.

Q. Do you happen to know a Ms. Katie Mae Andrews? A. Yeah, I do.

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[78] Mr. McTeer:

Q. Do you have children in the public school system? A. I do.

Q. What do you think about an unwed mother teaching your children? A. I don't think an unwed mother—morals have anything to do with an unwed mother. I believe unwedded mother can be good moral citizens. Just because they have a child, I don't think that have anything to do with their morals.

Q. So, in other words, you would feel quite safe if you knew that Ms. Katie Mae Andrews was teaching your child? A. Oh, yeah.

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Cross-Examination

[19] Q. Do you have a child that is the parent of an illegitimate child? A. Yeah.

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Q. Do you recognize the fact that in the Drew public schools there is definitely a problem with school girl [20] pregnancies? In other words, students between the ages of 13 years and 17 years that have had to drop out of school because they became pregnant while unmarried? A. Yeah, they had to drop out. Sure. I know that children have to drop out of school.

Q. And you recognize that that is a problem at Drew today? A. I don't—yeah, I recognize that as a problem, but I don't think that Ms. Andrews or Ms. Rogers had

anything to do with those girls dropping out of school pregnancy.

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JOHN M. PERKINS (FOR PLAINTIFF)

Direct Examination

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[23] Q. Reverend Perkins, I have but one question. As a member of the clergy, what is your opinion of the so-called morality of an unwed mother? A. My opinion of the morality of an unwed mother has to do with the person committing a sin, a mistake, and in the sight of God she ought to be forgiven and restored to the right favor with the community and with the people. That is—I see the church's role as playing the role of nursing and forgiving people for mistakes. And I see it as a punishment to the private person to be kept from their livelihood or work because they have made a mistake.

Q. Indeed, then, Reverend Perkins, an unwed mother could teach in the public schools, according to your knowledge? A. If we would take any other principle, that would mean that we would have to take anybody in the church [24] who have committed sin and excommunicate them from the church or from their other place or position. I am taking a Christian position since it was sent to the clergy.

Mr. McTeer: No questions.

The Court: You may cross examine.

Cross-Examination

By Mr. Terney:

Q. Reverend Perkins, you are not attempting to tell this court that you feel that the Drew school system or any other school system, for that matter, should employ

individuals who have a background of actions on an immoral basis? A. (No oral response)

Q. In other words, are you telling the court that you think the Drew school district should employ a murderer or a burglar even though this individual may have committed one isolated act in this regard?

Mr. McTeer: Your Honor, ain't no murderers, no burglars here and this ain't about murderers or burglars.

The Court: Rephrase your question.

[25] Mr. Terney:

Q. What would you feel about the school district employing a burglar, convicted burglar?

Mr. McTeer: Your Honor, same objection, rephrase the question.

The Court: I will allow it. It is cross examination. Let's see what he says.

The Witness: I'm thinking more in terms of dismissing these teachers from their job. I would be against dismissing teachers who had committed an act of having a child out of wedlock.

Mr. Terney:

Q. What would you feel about a teacher who had been convicted of the crime of burglary? A. If the person had been restored by his church, and was a member of the church, and in good standing with that local church, then I would say that person should be employed. That's what we send them to prison for, to bring them back, to rehabilitate them back to the community.

[26] Mr. Terney:

Q. What do you feel is the effect of a teacher in a classroom over the moral development or character development of a child in that classroom, a student in that classroom? A. I think it has a lot to do with it.

Q. Do you feel that the teacher serves as a model for that student, to a certain extent? A. Oh, yes, to a certain extent, yes.

Q. Would you go so far as to say that outside of the home, outside of the home environment, that the classroom in a school has probably more effect on the development, character development, moral development of a child than most any other institution? A. Yes, I would think so.

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BENJAMIN HAL BUCHANAN
(FOR DEFENDANT)

Direct Examination

[28] Q. Dr. Buchanan, I believe you stated your name for the record. A. I did.

Q. Where do you reside at the present time? A. I live at Merigold, Mississippi, a suburb of Cleveland.

Q. Is that in Bolivar County, Mississippi? A. It is.

Q. And where are you employed presently? A. At Delta State College.

Q. In what capacity? A. I am Dean of the School of Education and Professor of Educational Administration.

Q. Dr. Buchanan, could you give us your educational background, please. A. Finished high school at Brandon, Mississippi; after two years of junior college at Perkinston Junior College, I received a B. S. degree from Mississippi State University. I then went into the Army. And then I came back and went to the University of Mississippi and received a Master of Arts in Educational Administration. After working in administration in schools for a number of years, I then received the Doctor of Education Degree from the Mississippi State University, with a major in Educational Administration and Psychology.

[29] Q. Would you relate for the court your educational experience and background. A. First served at

Yazoo City, Mississippi, as High School Principal, 1948 to 1950; 1950 to 1952, I served as Principal of the McComb City School System, the High School in that system; 1952 to 1956, I served as Principal of the High School at Greenville, Mississippi; 1956 to 1960, I served as Assistant Superintendent to the Greenville Municipal Separate School District; 1960 to 1965, I served as Superintendent of the Greenville Municipal Separate School District; from 1965 to 1970, I served as Superintendent of the Starkville-Oktibbeha County Municipal Separate School District; from 1970 to date, I have served as Dean of the School of Education and Professor of Educational Administration at Delta State College, Cleveland, Mississippi.

Q. Dr. Buchanan, would you please tell us of your professional affiliations and memberships in professional organizations. A. I might forget some of them, I will try. The Mississippi Education Association, the Mississippi Association of School Superintendents, the Mississippi Association of School Administrators, and lately I have served as an Institutional Representative to the American Association of Colleges for Teacher Education. I am a [30] member of the Association for Teacher Educators of Mississippi and of the National Organization. I was a member of the National Education Association. I have since 1952 been a member of the American Association of School Administrators.

I belong to several honorary educational fraternities: Kappa Delta Pi, Phi Delta Kappa, Phi Kappa Phi, Alpha Tar Alpha. I think that's about it. I might have left out some, I'm not sure. I would have to check my credentials.

Q. That's fine.

Would you comment on some of your works or publications that you have had or addresses and so forth that you have made. A. I did a Master's dissertation,

Master's thesis on the adaptability of public schools in Mississippi. I did a Doctor's Doctoral dissertation, it was a comparative study, it was a comparison of scores of pupils who were taught reading by the traditional or conventional method compared with those scores of people who were taught by programed materials. I have written numerous articles for papers, some for nonpublication.

I couldn't tell you how many addresses and speeches of various sorts in school systems ranging from assembly programs to baccalaureate addresses—not [31] baccalaureate, but commencement addresses at Delta State College, at a number of high schools. I would say maybe a hundred or so addresses of various nature, civic, social, educational, et cetera.

Mr. Terney: If the court please, we tender this witness as an expert witness in the field of education at this point.

The Court: All right.

Do you wish to conduct a voir dire, Mr. McTeer?

Mr. McTeer: Just a second, your Honor please. No.

The Court: All right.

You may proceed, treat him as an expert.

Mr. Terney:

Q. Dr. Buchanan, are you familiar with the basis of the lawsuit pending here today and with some of the transcript of testimony that has transpired in this proceeding? A. I am familiar with it and I have read a transcript of the record.

Q. With particular reference, are you familiar [32] with the regulation in the Drew school district prohibiting the employment of unwed parents as faculty members? A. I am.

Q. As a school administrator and an expert in the field of education, do you feel that this regulation has a reasonable or rational basis? A. I certainly do.

Q. Could you give your reason for that, Dr. Buchanan? A. Yes. Teachers teach by precept and by example. I hold to the tenet that a teacher cannot be a good teacher without being a good person, which involves morality, which involves character, which involves reputation, training, experience, et cetera.

Now, I was reared in the Judeo Christian tradition of ethics. I think it is quite important what a person is as well as what he professes to be, and the influence that he can have on youth, or adults, for that matter. I think it is most important.

Q. What do you feel is the relationship between a teacher and student as far as the moral character development of the student is concerned? A. In the formulative years, in the beginning years, the elementary, I would say that perhaps the teacher has more impact, more influence even than parents in many [33] cases. And certainly as much in most cases. And most of all in many cases. I think that the teacher has the opportunity to be the progenitor of ideas ranging from morality to intellectual, of course. And as such I don't think the teacher has a peer unless it be a well qualified minister of the gospel. I frequently state to faculties as school would open and as we deal with beginnings of new years that next to the ministry I feel that a teacher has an opportunity to be as forceful in the shaping of life and character of individuals as any person, perhaps second to mother and father.

Q. Have you ever had occasion in your experience as a school administrator to have a situation arise similar to the question at hand here today? In other words, have you ever had a teacher in one of your school systems that was the unwed parent of a child, or a similar situation? A. Yes.

Q. Would you relate that particular situation to the court. A. All of them? Or as many as I can remember? Or just one?

Q. As many as you recall, yes, sir. A. Let's see. The first one that comes to mind was a teacher who went home for Christmas holidays and while home for the holidays found that she was pregnant. She [34] was not able to come back to work. Her mother told me, because the young lady couldn't talk to me, really, she was emotionally disturbed and didn't have command of her faculties to the extent that she could talk to me—her mother told me that she was just on the verge of a nervous breakdown, that she didn't quite know how to cope and she wouldn't be back. I said, "Fine, because should she come back we would have to terminate her."

Q. This teacher was unmarried at the time? A. She was.

Q. Have there been other instances? A. Yes. I had an occasion wherein a teacher became pregnant during the year—

Q. An unmarried teacher? A. An unmarried teacher. And she told me that the father of the child was a teacher in the same system under my jurisdiction at the time.

Q. Was this also an unmarried teacher? A. An unmarried male teacher.

Q. All right. A. Was the father of the unmarried female teacher's child. He admitted that this could be true.

Q. And what action, if any, did you take? A. I recommended to the school board that we dismiss both of them forthwith.

[35] Q. Was this done? A. It was.

I think of one other case.

Q. All right, sir. Would you relate that to us. A. At the moment. I think of only one other at the moment. A married teacher—well, no, this has nothing to do with—that's right, it wouldn't apply. This was a cohabitation situation.

Q. Well, what, Dr. Buchanan, is your feeling as to the moral standards that a teacher should maintain? A. I think they should be above reproach and yet I know that teachers are mortals just like everyone else, even though I feel they ought to be a considerable cut above the average person on the street regarding morality, character, reputation. And I think that one who isn't really doesn't desire the right to be a teacher, for when we serve in loco parentis to children, from the time they leave home, wherever they live, until the time they return to their homes, we are definitely responsible for what happens to them to help them or for what happens to them to hinder in any way whatever the development of moral and spiritual and intellectual responsibilities.

Q What effect do you feel that the employment of an unwed parent in the school system would have on the [36] student-faculty relationship and the effectiveness of the teacher? A. First let me speak to student-faculty relationships. At the very earliest ages at school, of course, most children wouldn't know too much about this. But as they reach the third grade, as they come to the age of puberty, as they come to the development stage in the third grade on up, they begin to notice, some of them even before this age, they begin to know, they begin to whisper and talk. Life is full of mysticism to them, there are many mysteries, and they naturally are inquisitive and want to ask questions and need to be given direct and good information.

I think that as the child from the third or fourth grade on up is concerned it would definitely to some children, not to all, because you know all of us are the result of everything that has ever happened to us, psychologically I know this, and we are nothing more than a total sum of the experiences that we have had, and to some it would mean nothing, to others it would be a shattering thing. And those who have been reared in Christian homes or those who believe in a code of morality and ethics in life would suffer. No doubt about it, in my opinion.

Q. Well, on the other hand, how do you feel this situation would affect the intra faculty, or faculty-faculty, [37] relationship? A. I can speak from some experience in this. It is a debilitating thing. It is something which causes ill feeling among the faculty, for if we are fair, and we should be with everyone, and if we don't discriminate one against another, then we need to have all the same rules and regulations. And for one to be allowed to do something that another is not, whether it be unwed pregnancy or theft, you just can't seem to justify it. It would be disastrous to some, it would be objectionable to most. There may be a few who wouldn't care too much, but I would think we would want to get rid of them anyhow.

Q. Well, how do you feel that a situation such as this, a teacher who is an unwed parent, how would this—or would it?—affect the ability or effectiveness of this teacher in a classroom? A. Yes, I think it would affect the teacher in several ways. First let's talk about the self-concept of the teacher. My previous testimony gave rise to some thinking on this question. To some this would literally shatter their self-image. The extent to which this would happen psychologically would be the extent to which the Judeo-Christian ethic that I subscribe to, or whatever ethic or morality code the teacher subscribes to, if it has meant something to them it would hurt them. If it [38] hasn't meant something to them, it probably would not hurt them.

Now, as to the ability of the teacher, as far as knowledge is concerned, it has no effect. I don't think you could say, except for the preoccupation which it causes, that the knowledge would suffer at all. Certainly she could be as kind and gentle in the classroom, she could be as warm in nature, except for the preoccupation of thought and action and self-image that might be involved psychologically, as she ever was. So she could talk as nicely, she could speak as well, articulation wouldn't be a problem, knowledge wouldn't be a problem, but there definitely would be a problem with self-concept to the extent to which the psychological makeup of this teacher has been steeped in whatever ethic or code of morality that this teacher subscribes to.

Q. If it became knowledge among the students of this condition or situation as far as the faculty member were concerned, would this knowledge have an effect on the teaching effectiveness of the teacher? A. Very definitely it would. Especially at the upper levels. For example, from junior high on up respect must be there for a student to even pay attention in most cases. And unless it is there, then it could be detrimental. And of course the more that a teacher can [39] relate to the student to find out about him, to show interest in him, the more good he should be able to do for him, for the student. And if this student "turns him off" then of course he doesn't have a chance, it would be very detrimental, in my opinion.

Q. Dr. Buchanan, there has been some testimony in this proceeding and prior, previous hearings to the effect that in the black community there is no stigma attached to the unwed parent status. In your experience as a school administrator and as an educator, what do you feel is the moral judgment or standard in the white community concerning this situation? A. I think there is

definitely a stigma to it. And don't underestimate your black clientele, too. There is a stigma to it to many of them.

Mr. Myers: I would like to interpose an objection to any testimony from the doctor from Delta State with regard to anything relative to the black community, based on his incompetence and incapability of doing so, being not a member of that particular community.

The Court: That would simply go to his credibility. Go ahead.

Mr. Terney:

[40] Q. Let me ask you this. Have you been in integrated school systems in your experience? A. I have, definitely.

Q. Both whites and blacks? A. Correct.

Q. You have dealt with both white and black faculty members and students? A. Correct.

Q. All right.

Are you familiar or have you ever been in the Drew area or familiar with the Drew school system? A. Yes, I have.

Q. As a matter of fact, you made an address at the high school graduation last year? A. That's correct.

Q. And you served a great deal of your time in education in the Mississippi Delta, is that correct? A. A great portion of it, yes.

Q. In integrated situations? A. Correct.

Q. With your background and experience and your familiarity with the Drew school system and Delta public school systems in general, do you feel that there is a need for such a regulation as we are discussing here today? A. I definitely do, yes.

[41] Q. Are such regulations customarily written or codified by a school? A. They weren't by the school boards I worked for. It might be a good thing for them

to be, but I don't know of a school system that has had enough cases to make it a regulation. And yet there are frequently this type of thing. Over my 20 years of experience I think I cited four, and I think I can vaguely remember maybe another one or two. I don't think most school boards put such things on their minutes.

Q. In other words, you can't cover every specific situation? A. Not possible. No way.

Q. What do you feel would be the effect if the school board permitted the employment of unwed parents? A. I think it would lead to a degenerative attitude on the part of some teachers, many parents. I think there would be an uprising, perhaps, in many instances by—maybe uprising is a little strong. I think there would be serious objections to it. And it could even get to proportions that might be a general public concern. No doubt about that in my mind.

Q. Do you feel that the regulation as stated is discriminatory against any individual because of their race? [42] A. As you consider discriminatory, do you mean one against whites or blacks as such?

Q. Yes, sir. A. No.

Q. Would you say it's more discriminatory against one race as opposed to the other? A. No, I do not think it's discriminatory. But naturally I think perhaps one race, in my experience, one race has perhaps been affected more than the other. But I don't think it's discriminatory.

Q. Would you say it's discriminatory as far as sex, male or female, is concerned? A. No, sir.

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[43] Q. Buchanan. Dr. Buchanan, when you were principal at Yazoo—was it Yazoo High School? A. Yazoo City High School, yes, sir.

Q. Was that an integrated or segregated high school? A. At the time it was segregated.

Q. How about McComb City? A. It was segregated.

Q. How about Greenville High originally? A. Originally it was segregated.

Q. When you were assistant superintendent of Greenville High School, was it integrated or segregated? A. Segregated.

Q. When you were the superintendent of the Greenville Municipal Separate School District, was it segregated? A. It was during the time that it was—it was integrated. It became integrated while I was there.

Q. I see.

Now, how many years of education do we have between the time of your involvement in Yazoo City up to the time in which there was integration? [44] A. From Yazoo City 1948 to integration 1964, I believe it was, when our board moved to go. It would be what—

Q. About 16 years. A. Sixteen years.

Q. All right.

So you have 16 years of segregated education. A. Correct.

Q. Now, you also went to what school? A. Starkville.

Q. Was Starkville a segregated or integrated school? A. Integrated the whole time.

Q. When you went there as a student? A. Oh, you mean—I didn't go there as a student. I went to Mississippi State University as a student.

Q. Was that segregated or integrated? A. It was segregated.

Q. Where did you go to high school? A. Brandon.

Q. Was that integrated or segregated? A. It was segregated.

Q. Very good.

Now, Doctor, you said a number of interesting [45] things about unwed parents. Have you done any studies to justify your opinion? A. Studies?

Q. Yes, studies. A. I have never conducted a study. I have read some, yes.

Q. What have you read? A. Well, I read the transcript of the evidence that has been taken here and I read a portion of a study from—Mister—the attorney gave me. I have read recently, the last few days, some on ethics and morality and the Judeo-Christian tradition and the early philosophies of people from Aristotle on up.

Q. I see. A. How these things more or less came to be developed.

Q. But have you done any studies particularly on unwed parents? A. I have never done a study as such on unwed mothers.

Q. Have you done any studies on unwed mothers as students? A. No.

Q. Doctor, that is amazing. That is amazing. You mean to tell me you haven't done a bit of study on an [46] unwed parent as a teacher but further understanding the fantastic problem that Mr. Terney talks about which I assume takes place all over the State of Mississippi, you haven't done a bit of study on the unwed parent as a student? A. Let me clarify my statement. I said I had not done a study. By a study I mean you go into research and do a paper or do a book or do whatever it is. I thought you meant had I done studies. I didn't know that you meant had I read about them. Yes, I have read some. Quite a bit.

Q. What have you read? A. The part that deals with the morality of—

Q. The part of what, Doctor? A. Morality of teachers. Morality in general, ethics in general.

Q. Doctor, what have you read? Namely. A. By article?

Q. Yes, sir. A. I can't name them.

Q. By book. A. (No oral response)

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[48] Q. So, in other words, you can say very clearly that you have not done any studying personally on the field of unwed motherhood, you have done no studies of the effects among unwed motherhood, no studies on the impact of unwed motherhood, is that correct? A. No studies or no studying?

Q. You have done no studies. [49] A. No studies.

Q. Now, what studying have you done? A. Since I have been in the education business for the last 20 years, from the ethical, philosophical, mores, convention and all this type of thing of peoples, societies, I would have to say it's been over this whole period.

Q. I see.

Now, Doctor, could you please tell me exactly what items or documents have you studied which go directly to the ability of the unwed mother to teach? A. I haven't.

Q. You haven't studied it? A. I don't think I have had an article that dealt with the ability of the unwed mother to teach.

Q. Very good. A. No.

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[50] Q. But, Doctor, once again I ask you, how do [51] you measure the impact of unwed parenthood in the teacher position upon the student? A. (No oral response)

Q. What is the basis of your thoughts other than your opinion? A. I know that it's morally wrong, according to all of the ethics that I have ever read and studied, according to the Bible and according to every other background, philosophical way of thinking that I know of.

Q. Doctor, you have made a number of statements about morality and a number of statements about Judeo-Christian ethics, I think. I would like to ask you a few questions about your feelings on morality. A. All right.

Q. Doctor, did you speak out in 1954 and earlier in favor of integration of the public schools? A. No.

Q. Why not?

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[52] Q. That's correct. A. For one thing, I wasn't convinced that it was the best thing to do for all children concerned.

Q. Are you— A. And I had been reared in a situation of separate schools for separate races.

Q. And that upbringing certainly has— A. Which had some bearing on my background.

Q. Of course. And it certainly has affected your thought, hasn't it? A. Probably has, yes.

Q. I see. Very good.

Now, Doctor, could you please state to me what is your present opinion of the viability of black children and white children going to school together? A. Explain what you mean by the viability.

Q. Do you think it's an advantageous thing for black children and white children for both of them to go to school together? A. In some cases I can't say it is, no. I think [53] it's an advantage—it might be an advantage for some and a disadvantage for others. However, it is the law of the land now and, whether I like it or not, that is what I have tried to promote since it happened.

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[54] Q. All right. Do you assume, then, that children do find out about the sexual acts or sexual relationships of teachers? A. I have no way to assume this.

Q. No way to assume that whatsoever? A. Except through gossip and through hearsay and this type of thing.

Q. I see. So then it is quite probable that a student who was taught by an unwed parent could be educated by that unwed parent without any knowledge whatsoever of that unwed parent's status as an unwed parent? A. Sure it's possible.

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[55] Q. Doctor, did you have or is it possible that you may have had unwed school teachers in your district teaching and you never knew about it? A. Possible, sure.

Q. Is it possible? A. Possible.

Q. Is it possible based upon the fact that probably unwed male parents are much more difficult to find than unwed female parents? A. Say it again now. Is it possible that unwed male parents are more difficult to find—

[56] Q. Are more difficult to find? A. I think it is.

Q. You think it is? A. I think generally if you are searching for them, I think so.

Q. What method did you use to find these unwed parents? A. I didn't use a method. It just came to me as reports.

Q. You said also that in none of the school districts in which you taught there was no specific rule that was written out that said the policy of the school was that unwed parents shall not be hired, is that correct? A. That's correct.

Q. Why is there no specific written rule in any of the school districts in which you taught? A. Just wasn't often enough to merit one, I suppose.

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[58] Q. Now, Doctor, you say that you are the Dean of Education at Delta State College? A. Correct.

[59] Q. Now, would an unwed parent be excluded from the school of education because of the fact that they were an unwed parent? A. It has never come up. No, I doubt if they would. I just thought of something else. You said would an unwedded parent be excluded from the school of education at Delta State College. I doubt that she would. However—and it has never come up since I have been there.

The Court: You mean as a student or as a teacher?

The Witness: As a student. As a teacher I can assure you that she would, as far as I'm concerned. This, though, has to be faced by whomever enters the teacher education program. By the way, I am director of the teacher education program there. Whoever enters the teacher education program must enter on recommendation of the department or the discipline from which they hope to graduate. For example, if a person wanted to be an English teacher, she has to be recommended by the faculty of the English Department, including the character references, the attention to studies and all of these things.

Q. But, Doctor, we are talking about— A. But it has never come up.

Q. Well, first of all, let me ask you this. Do [60] you have any policy or any procedure set at Delta State College by which to review unwed parent status or child status of students? A. Not that I know of.

Q. There has been no such procedure? A. Not that I know of.

Q. Yet, however, you state that an unwed parent, were that unwed parent to come to Delta State College to teach or to get a degree in order to teach, you are saying that that parent would not be granted the recommendation of the supervisor or whoever— A. No, I didn't say that.

Q. What are you saying? A. I am saying that a person to enter the teacher education program must have the recommendation of the department in which they want to graduate.

Q. You are saying, then, the unwed parent would not receive that recommendation? A. No, I didn't say that. I didn't say that. It has never come up. We have never had to face the issue.

Q. How do you know? How do you know that there were not unwed parents in your class— A. I don't know that. But I am saying to you it has never been an issue.

Q. I see. [61] Now— A. If there had been unwed parents trying to enter or they may have entered and graduated, I don't know, but it has not been an issue. It hasn't been brought up, to my knowledge.

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[62] Q. I see.

Now, Doctor, does the State of Mississippi, to your knowledge, have any requirement stating that unwed parents cannot teach? A. No. But it has regulations about the character of teachers.

Q. I see. So you are assuming, then, that an unwed parent automatically has some kind of detriment of character? A. Or morals or whatever.

Q. Character or morals. No matter what the situation? A. Uh-huh.

[63] Q. No matter how it occurred, no matter where, when or how, any person that has a child out of wedlock has a moral or character detriment? A. I would say that.

Q. I see. So despite the fact that the State of Mississippi and the Delta State College might say that this individual would be qualified to teach, you would say, however, as the person in charge of the school district, you would recommend that person not be hired? A. I think I would, yes.

Q. I see.

Now, I would like to pinpoint a little bit more exactly what are these detriments of character of the unwed parent. A. They are your terms. I don't know what you meant exactly. I thought you meant that there was some weakness in their character or something that you would consider as a mark against—instead of being elevating and improving the reputation or the recommendation for the person, it would be something that would detract. This is what I thought you meant.

Q. Doctor, going back to your statements on Judeo-Christian ethics, have you ever heard the Bible verse that he who is without sin, let him cast the first stone? A. I surely have.

[64] Q. Would you please explain to this court exactly what is your understanding of the meaning of the verse? A. My understanding of the meaning of the verse is that we shouldn't be prejudging everybody else, that nobody is without sin.

Q. Nobody is without sin? A. Except, of course, our Christ.

Q. I see.

Indeed, sir, are you aware of the fact that both of these ladies are deeply involved in their church, the plaintiffs in this matter? A. No.

Q. I see. A. I don't know the individuals.

Q. I see.

Now, are you saying, then, that—again, are you saying that if an individual is an unwed parent and after he becomes an unwed parent, whether it is a mistake or other, we won't get to that issue, are you saying that if this person dedicates his life to Christ, the Gospel, this person is not able to teach in the public schools even though he may be active in his church, active morally with other friends, but the one mark stands as a scarlet letter against his entire background? [65] A. I don't know that it would stand against his—of course, it would be against his background, but I have known people who were known thieves, I have heard them give testimony of their lives wherein they say, "Until I came to know my Lord and Savior I was thus and so. Now that I do know, I am something else." And I have known them to become ministers.

Q. I see. A. You see. So it's possible—

Q. So, in other words, an unwed parent could become your minister, couldn't he? A. Could.

Q. Then why couldn't that unwed parent be one of your teachers? A. Under certain conditions of knowledge of this rebirth, as we call it, it might be possible.

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[66] Q. So indeed then if a person has time to think over the acts that he has committed, whatever it may be, and the person then rededicates himself so that he may become better able to do that which he must do, then couldn't that person be able to fulfill certain standards? A. I would say he could.

Q. I see. A. But here is the problem in it. It is a matter of in a community where everyone knows everyone else, it's a matter of reputation. You see, character is one thing, reputation is another. One's character

might be shining white and correct all the way, but his reputation might not be as good. And the opposite could be true. One's reputation might be very good, but his character actually might not be so good. So it is the effect that you would have and the advisability of this type of thing that would have to be considered, I think.

Q. So, in other words, what you are saying is that a person who is an unwed parent, assuming—you assume, of course, that their unwed parenthood gives them a bad reputation, you are saying then that person cannot [67] correct that reputation? A. I didn't say that, no. I think they can.

Q. So, then, a person who is an unwed parent could indeed have a fine reputation in his community? A. After whatever it takes to purge himself of the—

Q. Of course. A. I suppose.

Q. Are you aware of the fact that there are people who have testified for both of these parents to say they have fine character in their community? A. I haven't heard that.

Q. Do you think if people come in and are willing to take that step that is some evidence of the fact these people would think they may have fine character in their community? A. I would think it would be an indication of it.

Q. I see.

Doctor, would you hire an atheist as a teacher? A. If I had my choice, I wouldn't, no.

Q. Would you hire a Jew? A. Oh, yes.

Q. Would you hire a Catholic? [68] A. Oh, yes.

Q. Would you hire a Communist? A. No.

Q. Why wouldn't you hire an atheist if you had your choice? A. Because I think there are too many people who have some particular faith that they can hang on to in a time of stress and trial and tribulation whereas

an atheist I'm afraid doesn't. And I think that it is quite important that every person—and I am not saying that you have to be a Christian to be a good teacher—

Q. I see. A. I am a Christian, but I don't say that you have to be a Christian to be a good teacher. But you must have something of spiritual depth, of value systems that would give you a philosophy of life or an ethics code or whatever it is that you can hang onto when the going gets rough or when you are called upon to do the job you are expected to do.

Q. I see. So an atheist would not have this value system? A. No, I'm afraid not. I don't know enough about atheists maybe, but I would say no.

Q. Very good, Doctor.

Now, Doctor, does this particular rule as [69] was set up in your school districts, did it challenge the promiscuity of a teacher or did it challenge the fact that a teacher might have a child? A. I don't think—

Q. In other words, Doctor— A. I don't think it challenged the promiscuity of the teacher. I think it was the fact, I think it was the result that made it necessary.

Q. All right.

Now, I would like to give you a number of examples and I would like to get your answers on these questions. Would you hire a woman who had had a child out of wedlock and then came to you for a job? A. If that's all I knew about her, no.

Q. Would you hire a woman who had a child out of wedlock, got married, and then came to you for a job? A. Had the child first and then got married?

Q. That's correct. A. I doubt it.

Q. I see.

Would you hire a person out of—a person who you knew had had intercourse many times but for some strange reason did not have a child? A. No, I wouldn't.

Q. You would not hire them? [70] A. No.

Q. Would you hire an adulterer? A. No, not knowingly.

Q. You would not hire a fornicator? A. No.

Q. Would you hire a person that used contraceptives? A. Surely.

Q. Would you hire an embezzler? A. Not knowingly.

Q. Would you hire an individual that had an abortion? A. You would have to tell me more about the individual.

Q. An abortion that was out of wedlock. A. No, I don't think so.

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[71] Q. Now, you have stated the fact that you would not hire a fornicator, but, on the other hand, you stated the fact that you would hire an individual who used contraceptives. Now, if you knew that an unwed person were buying contraceptives, would you hire him? A. No.

Q. You would not hire a person solely because of the fact that they were buying contraceptives? A. Well, I assume that you mean if he is buying them he is using them.

Q. If he is using them, that's correct. A. Is that your inference?

[72] Q. That's right. A. No, I wouldn't employ him.

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[74] Q. I see. And you also assumed the fact that if a teacher has no ethics then it also—there would be no problem in terms of the teacher's ethics, if the teacher had no ethical feelings, correct? A. My statement was, I believe, to the extent of the psychological background

and makeup of the individual it would affect them proportionately to their feeling of morality about any of these things, that or any other.

Q. Doctor, isn't it also possible, however, that an individual could commit an act, feel that they still have a life to live and attempt to do everything in [75] their power to correct all difficulties? A. Surely.

Q. Isn't it also possible that they could gain the respect of their community for doing that? A. It is.

Q Isn't it also possible then, Doctor, that not only would they gain the respect, they would be extremely effective in anything they did? A. It's possible.

• • •

[77] Q. Now, the testimony that you have given today, your feelings and observations that you have made in regard to this particular regulation that we are dealing with, is it based on your experience and educational background or is it based on some readings on the subject? A. Both.

Q. The views that you hold are not racially motivated, are they? A. None whatever.

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Redirect Examination

[78] Q. Now, do you have any connection with an institution for unwed mothers? A. I do.

Q. In what capacity?

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Q. In what capacity are you connected with an institution for unwed parents? A. I am a member of the Board of Directors of the Mississippi Children's Home Society. This society has two parts, really. It has a children's home for orphans or for children given out for

adoption for any reason, it also has the Crittendon Crestview Home for Unwed Mothers. [79] And I hear reports about it, I do not deal directly with the unwed mothers, I deal with the people who deal with the unwed mothers, as a member of the Board of Directors. I have a great deal of empathy for them, I want to be helpful to anybody that I can help. And it is a nonpaying, nonsectarian, nonpolitical situation. I was asked to join the Board simply because they wanted people from all parts of the state to help set policy and to help raise funds, if you please, and get contributions to carry on the work of the society.

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[84] Q. Would you tell me and the court how you view a teacher's status not only in the school system but in the community as far as his moral conduct should be. A. I think my prior testimony will bear this out. I think the teacher should be close behind the minister in his morality, in his influence on youth and adults in the community. I think he should be above reproach.

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[86] Q. Doctor, what is the name of the home of which you are presently a member of the Board of Directors? A. The Mississippi Children's Home Society.

Q. I see. Would you please tell me how many unwed parents or orphan children are kept at this place? A. I can't tell you. I could guess I think pretty closely. Seems to me at our last annual meeting the number which had been kept during the year was a hundred something. I'm not sure.

Q. Would you please give me the racial composition of that group? A. White.

Q. All white? A. All white.

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[88] RUBY NELL STANCILL (FOR DEFENDANTS)

being first duly sworn, was examined and testified as follows:

Direct Examination

By Mr. Terney:

Q. Would you state your full name for the record, please. A. Ruby Nell Stancill.

Q. Mrs. Stancill, where do you live? [89] A. In Drew, Mississippi.

Q. How long have you lived in Drew? A. Almost 22 years.

Q. And where are you employed? A. At the Drew High School. By the Drew Public Schools.

Q. In what capacity? A. High school mathematics teacher.

Q. How long have you taught in the Drew School System? A. Twenty-two years.

Q. What is your educational background? A. I have—went to Junior College at Clark Memorial College in Newton, I have a B. S. Degree from Mississippi College in Clinton and I have a Master's of Education in Secondary Education from the University of Mississippi.

Q. You have taught in the Drew System for 22 years? A. Twenty-two years.

Q. Prior to that, did you teach? A. I taught at Andy and Central School at Bentonia, Mississippi.

Q. How long there? A. One year.

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[94] Q. Now, in the white community at Drew, what are the values or moral standards concerning unwed parent status?

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[95] The Witness: The white community just does not approve of such. It is against the community's values. And morally the unwed mother situation is just not an accepted situation.

Mr. Terney:

Q. What effect do you feel it would have on the white students in the Drew Schools if unwed parents were allowed to teach? A. I think we would lose the ones we have.

Q. What would it do to those that may possibly come back into the system at a later time? A. It would keep those from coming.

Q. Do you know of your own knowledge? A. I have been told by mothers. One told me [96] last week prior to my knowing anything about this court that her child could not come back to the moral situation.

Q. Do you know of any other situations at Drew, white or black, where, other than the plaintiffs, an unwed parent has been denied employment on the faculty? A. We had a secretary once who had the same—at that time the secretary had the same qualifications as a teacher.

Q. Was this individual white or black? A. She was white. And she resigned voluntarily because of her condition.

Q. What relation do you feel that a teacher has to a student as far as the moral development, character development of that student is concerned? A. A teacher has a great responsibility in that sense because children want to be like the ones that they are around. They are great imitators. They have a tendency to mimic or to want to be like those they are around. And a teacher has as great a responsibility teaching moral values and character values, I would say, as subject matter. And you don't just—well, those little things come in as a teacher

is teaching. You just don't take out time necessarily for a lesson on that. But you can work in a great deal of teaching while I am trying to teach a mathematics problem.

[97] Q. Do you feel that a teacher does, in fact, have an influence over a student's moral or character development? A. Yes, very definitely.

Q. Have you seen this in your own experience? A. In my associations I feel that some teachers—the teachers that I respect more highly than others I can see the reaction of students to those teachers more so than one that they do not feel any confidence in or have respect for. I can't cite specific instances, but through my years of teaching I am very aware of which teachers are respected and admired and which ones are not.

* * *

Cross-Examination

* * *

[101] Q. That person is the same that you testified about as a person who has a child at home and is a teacher. Do you think a person who has a child at home and is a teacher would create the same type of disturbance? A. Yes.

Q. You do? How? A. That is not an accepted moral situation. And young people have tendencies to look for that in a person. And anything a young person can have against a teacher that would reflect upon his character, he is quite quick to bring up situations like that. Especially in conduct situations. And quite frequently you hear a child say, "I don't see why that teacher can tell me something because he does something." and situations like that can really be brought out in a hurry.

* * *

[103] Q. Mrs. Stancill, how many white unwed mothers do you know? A. I don't know. Not very many.

Q. Do you know any? A. Right offhand, I know of one person that I [104] was in school with, not a Drew person.

Q. You don't know any white people in Drew who have children out of wedlock? A. Offhand I can't name one.

Q. You have testified that you know the general goings on and the general feeling of the white community. A. Sure.

Q. Do you believe that there are any in Drew? A. Could possibly be some. I do not know. I'm not aware of it. If I could think, I might could name somebody. But I do not know one.

Q. Do you know whether there are any teachers in the Drew system that work with you who had children out of wedlock who were later married who are now teaching in Drew? A. Not in my building.

Q. Not in your building. A. That's right.

Q. You know that for a fact? A. I wouldn't swear to it.

Q. But if you found that out, do you think they should remain as teachers? A. No.

Q. You think they should be excluded? A. Sure.

[105] Q. I think you have testified that unwed parenthood is against the moral values of the white community in Drew. A. I think it is against everybody's moral values, going back to biblical teachings. I think there are a number of scriptures that refer to a situation of that type.

Q. Oh, so you are basing your thoughts on biblical teachings? A. The moral and ethical values I have had instilled in me all my life.

Q. Do you also believe in forgiving people for sins? A. Yes.

Q. How could you subscribe to what you just said and believe in forgiving also? A. Now, you are talking about forgiving and you are talking about hiring for a job.

Q. Right. A. I understand that there are a number of professions that people are not permitted to engage in because of previous records, regardless of how they have been forgiven.

Q. What about people who have committed crimes? A. I think the same thing holds there.

[106] Q. If you found that a person was an embezzler, would you want them teaching your children? A. No.

Q. You would not? Are there any people like that in the Drew Municipal Separate School District? A. I hope not.

Q. Do you know for a fact that there are not? A. No.

Q. But you do know how you feel about unwed mothers, don't you? A. Same way about embezzlers.

Q. What other jobs would you exclude unwed mothers from having? A. Any type of responsible job dealing directly with children.

* * *

[107] Q. Do you have any children? A. No.

Q. You do not have?

Are you married? A. Yes.

* * *

[108] Q. What other morals would—immoral acts or conditions would the white community feel that a teacher should not have? A. I think that teachers—well, there are a lot of moral things that come into one's

life. I think how he lives his private life involving the things that I personally feel are wrong, and I am sure somebody might think differently, but I do not approve of drinking—

Q. No, Mrs. Stancill— A. All right. A teacher has to be very careful about where they go, his private life, drinking, gambling, things of this nature would not be tolerated by the white community for teachers.

Q. What about fornication? A. No.

Q. What about premarital sex? A. No.

* * *

[110] Q. Now, does unwed parenthood have anything to do with the qualifications of a person to teach? A. His subject matter qualification? No. But a teacher is more than an imparter of subject matter.

* * *

[111] Q. Let me ask you another one. Do you feel that if you found out a single teacher had premarital sex, do you think that teacher should be excluded as a teacher from Drew?

* * *

[112] Q. Now, it has been testified by a number of people, I believe, that the students are inquisitive. And I believe you testified that the students are inquisitive and that they will find out about a person's immoral behavior, is that true? A. Well, most situations like that are rather obvious. A person reflects what he is nearly always. And it doesn't take a blind person or a deaf person to be able to see what a person is.

Q. Okay. Now, tell me how you arrived at that conclusion. A. I have lived 42 years and I have been observant for those years.

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DEPOSITIONS

U. S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF MISSISSIPPI GREENVILLE DIVISION

(Title Omitted in Printing)

DEPOSITION of ERNEST van den HAAG FOR DEFENDANTS, called as a witness herein, taken pursuant to notice dated May 16, 1973, taken at the office of Dr. Ernest van den Haag, at the above place and time, before a Notary Public of the State of New York.

* * *

[3] ERNEST van den HAAG, being first duly sworn by a Notary Public of the State of New York, was examined and testified as follows:

Examination by Mr. Terney:

Q. Would you state your full name, please? A. Ernest van den Haag. I will spell the last name: v-a-n d-e-n H-a-a-g.

Q. Dr. van den Haag, where are you presently employed? A. I am Adjunct Professor of Social Philosophy at New York University; and I am a lecturer in Psychology and Sociology at The New School for Social Research, both in New York. And I am also a psychoanalyst in private practice.

Q. Doctor, could you give us some of your educational background, please? [4] A. Yes, sir. I was—I studied originally in Italy at the Universities of Naples and Florence. Later in Sorbonne in Paris. Then I came to this country and got a Master's Degree at the State University of Iowa, Iowa City. Then I taught at the New York University, and also got a Ph. D. degree from that uni-

versity. Since that time I have been teaching, writing and lecturing and practicing psychoanalysis.

Q. What professional papers or publications do you have? A. Well, I have written five—published five books. The first of which was called EDUCATION AS AN INDUSTRY.

Do you want me to list them all?

Q. Please. A. EDUCATION AS AN INDUSTRY, THE FABRIC OF SOCIETY, that was written together with Ralph Ross. PASSION AND SOCIAL CONSTRAINT, THE JEWISH MYSTIQUE, and my last book, which came out last year, was called POLITICAL VIOLENCE & CIVIL DISOBEDIENCE, Published by Harper & Row.

I have also written chapters in books edited by others, about fifteen or so. And I have written about seventy to eighty, I would say, papers [5] in learned journals and intellect journals.

Do you mean to ask about my memberships or—

Q. Yes. I was going to ask to which professional societies do you belong at this time? A. I am a member of a number of professional associations.

Association for Applied Psychoanalysis, I am also a Fellow of the American Sociological Association, and of the Royal British Association for Economics.

I am at this time a Senior Fellow of the National Endowment for the Humanities, and I have been a Guggenheim Fellow in the past.

Q. Doctor, would you name several of the journals that you have had material published in? A. The American Journal of Psychoanalysis. The American Sociological Review. British Journal of Sociology. Daedalus, a scholarly journal published by the Academy of Science. Harpers, the Atlantic, and Encounter, which is a British journal.

Frankly, if you will be good enough to give me—I would remember. My memory is not very [6] good.

Quarterly Journal of Economics; the Annals of the American Academy of Political and Social Science; Commentary; Trans-Action; Social Problems; various law reviews. Then, in the bulletins of various psycho—

Mr. McTeer: Excuse me. May I see that, please?

A. I don't believe I finished that sentence—

In the bulletins of various psychoanalytical societies.

Q. How long have you been a professor at New York University? A. I think it's twenty-seven years, now.

Q. How long have you been a practicing psychoanalyst? A. Perhaps a little less than twenty years.

Mr Terney: At this point, we tender this witness as an expert in the field of education, Sociology and Psychology.

Would you gentlemen like to cross-examine him as to his professional qualifications at this time, or wait until later?

Mr. McTeer: I think we would prefer to [7] wait. We will wait until later.

Q. Dr. van den Haag, are you, at least in part, familiar with the background of the lawsuit in question, with particular reference to testimony of certain witnesses and the pleadings and briefs that have been filed in this matter? A. Yes. You have informed me of these and I have seen the transcript of the testimony of Dr. Samuda, I believe is the name.

Q. You know then of the existence of a policy or rule within the Drew Municipal Separate School District concerning the employment of unwed parents for faculty positions; is that correct? A. Yes, sir.

Q. And that this rule, in effect, which has been adopted by the school board, denies employment to individuals who have had children out of wedlock? A. Yes, sir.

Q. Can you see a rational basis for this rule? A. Yes, sir.

Q. Would you state that, please? A. In American society, the family is a protected institution. Let me perhaps go back a little farther:

[8] In all societies, certain institutions are protected, and in all societies the sexual activities of the members are regulated and controlled by protected institutions.

In American society, monogomous marriage was a protected institution and still is, except that we now have some form of, what we call, serial polygamy. That is, people can marry upon divorce new partners, but they can only marry one person at a time, and the intent of the American society has clearly been to regulate, not only sexual activity, but also the having of children in such a way that children are the offspring of people married to each other.

Given this institution of the family centering around connubial marriage is protected in American society.

It follows that those who do not conform to that institution are legitimately made to suffer some disadvantages, particularly if they deliberately fail to follow that institution—to conform to that institution.

In the past, they were legally punished for fornification or cohabitation. I think this is no [9] longer done in practice. But they suffer all kinds of social disadvantages if they cohabit without being married to each other. These disadvantages differ somewhat from place to place. Usually greater in rural areas and less in urban areas. There are regional differences.

It seems to me that if the institution is protected legally, then it would be inconsistent if a government or governmental agency were to hire—were to employ people who refuse or have refused to conform to the prescribed institutional patterns. But it would be particularly

not just inconsistent, but in concert with the purposes of this society, if such people were hired in positions where they intentionally or otherwise, they serve as models for the young.

Now, teachers have basically two tasks: to teach cognitive knowledge to their students, but also to transmit and, inseparably from this cognitive knowledge, to transmit the cultural heritage of the society or community in which they are employed. This last function is particularly strong in the lower grades, grade school and high school. The reason for that is that when students reach a certain age, we assume [10] that they can, to a greater degree, be subject to all kinds of influences of their own choice outside the school, and that they have the maturity to select the influences to which they will yield. But in grade school and high school, they are necessarily subjected only to two main influences; namely, the home and the school.

And in the school, more specifically, the classroom teacher; the classroom teacher affects the emotional attitudes of his or her students, largely by his or her personality and conduct. Students, in this respect, are unlikely to make a distinction between conduct within and outside the classroom.

The authority of the teacher and his or her ability to teach depends very largely on being accepted by her pupils. And by accepting the teacher, the students tend to accept, not his specific competence, say, in arithmetic, or hers, but rather the teacher as a person. And in accepting the teacher as a person, the students without making distinctions tend to accept and take as a model to some extent, and identify with and, in fact, in effect, build their own identity on, the teacher's general conduct, behavior and so on, [11] to the extent to which they are aware of it.

Let me point out that students seem to have sources of information that I never have been able to fully find out, but they seem to always know everything about their teachers.

Hence, to come back to your original question, it seems to me, not only permissible but obligatory for a school board to hire only such teachers as the school board believes will offer wholesome models to the students, desirable in the view of school board models. Models that the school board feels the students would do well to imitate.

I do wish to point out, I do not want to pass judgment on what is right or wrong in this respect; I merely wish to say that given that a society has protected certain institutions, it is rationally entitled to select people as models for the children to be educated or socialized; that is, introduced to the patterns of that society, which is a technical term. It is entitled and, in fact, obligated to select such models as would induce these children into the desired social patterns.

Q. Doctor, what would be your opinion as to [12] the effect upon a student in a classroom in the Drew School District, whether the child's teacher, male or female, was the parent of a child born out of wedlock, but subsequently the teacher—the unwed parent had married either another individual or the other parent of the particular child? In other words, what I am saying, would the fact that an individual who has a child out of wedlock and subsequently marries and presents himself or herself for employment, what would be the effect of that situation upon a child in the classroom? A. May I just briefly summarize your question, and you correct me if I didn't fully understand.

You want to know what I think about the effects of hiring a teacher who has had a child out of wedlock and then marries. Now, you haven't told me whether

he or she marries the parent of the child or someone else, or does it matter?

Q. Correct, it doesn't make any difference. A. Did you say you want to know what the reaction would be in Drew?

Q. The effect in Drew to the classroom students. [13] A. The trouble is I have never been in Drew, so you will have to tell me a little bit about that.

Mr. Terney: Drew is a small, rural school district with approximately fifteen hundred students in grades 1 through 12. There is one high school, one junior high school, and one elementary school.

The Witness: How big is the locality?

Mr. Terney: The Town of Drew is approximately five thousand.

The Witness: I see, thank you.

A. Well, we are dealing here, then, with a small town and with a small school. This being the case, I would assume that the situation you have described would become known to the pupils through their parents or otherwise. Obviously, if a situation is not known, it would have no effect, but my assumption is that it would become known in small towns, whether by gossip or information. People do know about each other's lives. And students, as I mentioned before, are particularly curious about the lives of the adults with whom they are in contact. So, I think they would know.

Now, a great deal would depend on how the [14] matter is presented to students. If he makes the assumption that in that small town the behavior of the teacher who has had a child out of wedlock and thereupon married someone is regarded as immoral, then the students would find themselves in a conflict situation. On the one hand, they would reflect the opinion of the environment that the teacher's behavior is immoral. On the other,

they would be confronted with that teacher whom they have been informed has acted immorally, as an authority person who teaches them.

Now, there are two possible reactions: If they like the particular teacher we are talking about and accept him or her, the reaction would be that they would accept him or her totally, and therefore, accept the behavior that the surrounding community regards as immoral; and accept for themselves the idea that it is all right to have children out of wedlock provided they get married later on to someone.

Or, on the other hand, if they happen to not care for that particular teacher, then they would feel that the teacher's immoral behavior, immoral in the eyes of the community, invalidates his or [15] her authority and their ability to learn from that particular teacher would be impaired by their rejection of their teacher, reinforced by the rejection of that teacher by the community.

Q. What is the effect of this rule as far as the family institution is concerned? A. You mean the rule not to hire?

Q. Yes.

Mr. McTeer: I want to put an objection on the record for that. Go ahead.

The Witness: I am to answer?

Mr. Terney: Yes.

Mr. McTeer: My objection is based upon the fact that this question is irrelevant.

A. I think the aim of the rule is to protect the family as an institution as conceived of and protected in the community in question, and I think that rule would have that effect. It would be effective in the protection of the accepted sexual morals and family patterns.

Q. As a practical matter, Doctor, what are some of the occasions in the classroom or the school setting for

the unmarried status of a teacher of a [16] child to be communicated among the students?

Mr. McTeer: Just a second. I place an objection on the basis of incompetency.

Mr. Terney: You can answer the question.

The Witness: All right.

A. The two possible assumptions. Assuming that the teacher teaches, say, arithmetic, there would be in the official classroom communications no occasion to refer to the family status of the teacher. But, of course, the children would have knowledge, as I said before, through their parents and the community grapevine. And their attitude towards the teacher on the one hand and towards the protected values of the community on the other hand, would be affected.

But, I have considerable knowledge of grade and high school practices. It seems to me that even a teacher in arithmetic in graded high schools tend to communicate with the children on an emotional basis and quite often refers to everyday events, occurrences within his or her own family; asks the children to tell about their everyday life. That is the more so—the more the teacher goes into fields other than arithmetic. And the practice, of course, in lower [17] grades is for one classroom teacher to teach a number of subjects.

Teaching such subjects about, say, American history and social studies, family and, perhaps, today, I do not know whether this is the case in Drew, sexual education and education in family patterns. It is unavoidable, it seems to me, that the pupils will be curious about the teacher's own family life, past and present conduct, and it is unavoidable that the teacher, whether he likes it or not, expresses his own values in the classroom.

If the teacher feels it is all right to have illegitimate children or children out of wedlock, such a teacher can

hardly, at the same time, pretend to the children in the classroom that it is wrong.

Clearly, the children would notice the inconsistency.

On the other hand, if the teacher feels it is wrong himself or herself, and yet has had children out of wedlock, I think it would be hard for the teacher to present himself to the classroom as a repentent sinner, who has done something that is wrong. So, in effect, the teacher would be compelled, I would [18] say, to tell the children that it is all right to have children out of wedlock.

And that, of course, would have one of the two effects I mentioned before. If the children accept the teacher in general, they will accept his teaching. If, on the other hand, the teacher has been unacceptable for other reasons to the children, this behavior and this expression of values will make him even more unacceptable, to such a point as to compare his or her ability to teach the children anything.

Because, I do wish to emphasize that teaching, particularly in the lower grades, is not contrary to appearances; a purely cognitive matter, affecting and involving just the intellect.

Children learn and children learn only because they like their teacher and wish to please him. Children learn for the love of the teacher, so to speak. This is less so as the children grow older, but it never fully stops. It is hard to learn from a teacher you don't care for; Impossible for a young child, I would say.

Hence, between teachers and pupils, there is necessarily, though not necessarily consciously, [19] an emotional relationship. The teacher cannot teach unless he or she likes children. The teaching of the teacher affects the child as a whole.

I hate to repeat an old cliche to the effect that one does not teach subjects but teaches children. I think that

has been driven a little too far, so that many teachers no longer know subjects. But it is true to the extent, certainly, that the children in the lower schools—the teacher cannot teach any subject unless a child accepts him, likes him, and admires him. He takes him as a model. You have to remember that children, in the process of being socialized, assume and learn to assume social roles; assume and learn to assume an identity of their own. That identity is formed by, as it were, incorporating part of the personality, conduct and values of adult models.

It starts, usually, within the family, but it goes on, of course, until at least adolescence. And, in fact, resumes in adolescence by accepting as models all kinds of admired persons; at first, those in physical proximity, such as parents and teachers, later on more distant heroes. This is what we say, [20] Erik Erikson and other psychoanalysts have taught us. I think this is now very generally accepted. That is, how personal identity is formed so that if, say, your teacher is a Nazi and you happen to like and admire him, the chances are that you will form a Nazi-like personality and vice versa, and so on.

Q. Doctor, when you state that the conduct or the fact that an individual is the unwed parent of a child, and this is wrong, this is not a moral judgment as such, is it? A. No. I think there are a great number of societies having a great number of ways of regulating sexual conduct. Throughout the history of the world, we have seen societies with polygamy; societies with polyandry societies with all kinds of sexual regulations.

What usually happens is that the more advanced civilization, the stricter is the sexual relation. But in all societies, there is some sexual regulation. And I am not passing any judgment. I think it would be very hard to pass a judgment on what regulation is right or wrong. All I am saying is that in each society a particular regula-

tion prevails, and that the society must educate its children so as [21] to fit in that particular regulation or institution.

Q. Doctor, you stated that you are familiar with the transcript of the testimony of Dr. Ronald Samuda. A. Yes, sir.

Q. And he made reference to the fact of the different moral codes or standards within certain economic levels of the black community as well as and compared to various economic levels of the white community.

Could you comment on that, please? A. Well, in a large society, such as the American society, culture is derived from a variety of sources and is certainly not homogeneous. There are a number of sub-cultures. These are ethnic, economic, regional, urban, rural and so on. Say, Italians in New York, people of Italian decent have a somewhat different sub-culture from people of Irish descent in New York; from blacks. Blacks themselves have different sub-cultures, depending on whether they are middle-class, lower-class, religious, non-religious, urban, rural and so on. So, it is entirely correct to say there are different sub-cultures, all of which are part, [22] diverged slightly within a range from the general culture.

Q. Would there then be a value conflict between a teacher of one race or economic level as compared to the students in his or her classroom that may be of different races and economic background? A. I don't think that values are racially determined. If it were so, of course, then it would be necessary to reintroduce segregation. I think that there are divergences among whites as well as among blacks, and divergences between whites and blacks, but not such as to invalidate the attempts to educate them together. That attempt, of course, means that it is possible for a white teacher to teach black children and it is possible for a black teacher to teach white children. It is possible to teach black and white children together;

that their values are not so divergent, that it is impossible to teach them together.

Now, teachers, generally speaking, tend to be lower middle-class or middle-class, and that is so whether the teachers are white or black. Middle-class and lower middle-class are very vague designations. But historically speaking, for instance, the teaching job for most people, white and black, has been [23] the first stepping stone on the ladder from the lower to the middle-class. Most of the pupils of the teachers are lower-class. By definition, almost the majority, a number of people are lower-class than middle-class. The social pyramid is a diminishing pyramid.

And it has always been the pattern of teachers to teach the values that are the official accepted values and ideals of the society to pupils for whom these ideals—well, who learn these ideals, very largely in the school, if they have not previously learned them in the home. I don't think that involves a conflict that involves what we call the learning process. It involves no more conflict than to learn that two and two makes four, when previously you had not known that.

You go to school to learn the cultural heritage of the society of which you are a part. The cultural heritage is always selected. Surely, in our society there has been burglary, murders, all kinds of illegal activities, which in a large sense are part of our culture. But, it is not the task of the school to transmit to its students techniques of [24] burglary or the acceptance of burglary or murder or generally of violence. Rather, it is a task of the school to selectively transmit the cultural heritage. For instance, the ideas of honesty, proper behavior and so on. In this respect, with respect to sex, too, the ideals of restraint of avoidance of certain sexual practices, including avoidance of illegitimate children.

Q. Doctor, Dr. Samuda made the observation in his testimony that about one-third of the births of black people are from unmarried parents, and he draws a conclusion, that would mean the school board would then be excluding them from employment, at least one-third of the black race.

What is your comment on this observation? A. Do I understand correctly that his contention was that one-third of the black children are born out of wedlock?

Q. Yes. A. And that, therefore, to exclude parents of children born out of wedlock, would exclude one-third of the black race from employment?

Q. This is a conclusion that he reached, yes. A. The conclusion is nonsensical. All I can say, [25] if he accepts that one-third of black children are born out of wedlock, and of course, it does not follow that one-third of all blacks are parents of children out of wedlock. The black community consists of people of all ages and, at least, of two sexes. Not all of them are parents. And it is entirely conceivable, for instance, for one parent to have five children out of wedlock. It is, of course, statistical or legitimate to say if there are five children out of wedlock, there must be five parents out of wedlock. Hence, the conclusion: If one-third of all black children are born out of wedlock, that one-third of all black adults are parents of children born out of wedlock. It is statistically nonsensical.

Q. Dr. Samuda, further testified, that Dr. Kinsey had shown that premarital sex and extra-marital sex is far more frequent and extensive among upper middle-class than among working class. And further, that the moral values of the working class, in particular the black communities are far more rigid than that of the upper middle-class.

He, on that basis, draws the conclusion that there is no correlation between having borne a [26] child and teaching. A. I don't understand the last conclusion, but I will—I would like to come back.

As for the first point, it was, if I understand correctly—would you repeat it, please. I'm sorry.

Q. Dr. Samuda testified that Dr. Kinsey had shown that premarital and extra-marital sex is far more frequent and extensive among the upper middle-class than the working-class.

Mr. McTeer: Counsel, would you please give me the page number?

Mr. Terney: Page 6 of direct examination of Dr. Samuda. Pages 5 and 6.

A. This is an assertion of findings of the Kinsey Report. It is untrue. The findings of Kinsey are diametrically to the contrary. What Kinsey has stated in his report and found was, very briefly, sexual conduct is correlated to the education far more than to the income group. And that, simplifying it a little bit, in the lower or less educated group, there was considerably more promiscuity, including premarital or extra-marital sex in the upper or more educated [27] group, which is often more middle-class, there was considerably less promiscuity, premarital or extra-marital sex. The very opposite of what you have just quoted to me.

Now, Kinsey also found that perhaps that is what confused Dr. Samuda; that in the less educated or lower group, sexual patterns are more rigid, not by being less promiscuous but by the variety of sexual practices being more limited. Whereas, in the middle-class and more educated groups, Kinsey found that although people were less promiscuous and approved less and practiced less extra-marital intercourse, what intercourse they did have,

was less rigidly limited, and that they approved of greater variety without regarding that variety as pervert, morbid or wrong.

According to Kinsey, in the less educated groups, he found, for instance, some people don't even undress for intercourse; that various forms of kissing and so on are regarded as "unnormal"; whereas, in the more educated groups a greater variety of sexual technique, let's say, was accepted. But, on the other hand, there was also a greater adherence to the accepted social pattern of monogomy or exclusion of premarital [28] intercourse, or at least of promiscuity.

Q. Did Kinsey's research deal essentially with the white community or the black community? A. Essentially with the white community. I don't quite recall whether he interviewed some black people too, but I would be very leery of applying Kinsey's report to the black community, which I think is, in this respect, quite different from the white community.

Q. Dr. van den Haag, could you comment on the rule —when I say the rule, I mean the rule in question that has been adopted by the Drew School District—could you comment on the rules of facts as it applies to a situation when an individual has premarital sex and uses contraceptives and therefore there is no product of this sex act as far as a child is concerned? On the other hand, the fact that another individual may engage in the same sex act outside of marriage and have a child, and, therefore, be penalized by the rule. A. Well, it's like—I would be tempted to say it's like with any crime. You can't convict someone unless there is evidence. It is perfectly true that other people may be committing crimes and not be [29] convicted for lack of evidence, and therefore they will not suffer, in many cases, and not go to jail, and so on.

The point of the matter is very simple: it is very easy to, or perhaps not in a small town such as Drew, to hide your sexual activities unless you have sexual intercourse on a lawn in front of the school. It is not likely to be known, but on the other hand, if you have an illegitimate child or child out of wedlock, it is clear to anyone that you must have had sexual intercourse out of wedlock, as the evidence is living and around.

You are entirely right in your suggestion that others may get away with it because they have not produced the evidence by taking appropriate precautions. It is entirely possible that a burglar might get away with it. Having taken appropriate precautions, he has not been apprehended, or if apprehended, he has not been convicted because of lack of evidence. The ones who have been convicted because of the presence of evidence, will suffer considerably more than the one who has not been. But as far as the children are concerned, what matters here is they [30] will not be influenced by the sexual life of a teacher, of which they have no knowledge. They will be influenced by the sexual life of a teacher if they do have knowledge: The knowledge consisting of having witnessed activities or utterances or of the presence or the knowledge of the existence of the children born out of wedlock.

Q. The rule then regulates a status rather than a moral condition; is that correct? Is that a correct assumption? A. You would have to explain a little bit more.

Q. When I say it regulates a status, I mean the fact that the individual has an illegitimate child, it regulates this situation rather than the situation of an individual engaging in premarital sex? A. In practice, yes. Because in practice, it is impossible it seems to me to regulate whether a prospective teacher has extra- or premarital

sex. No school board would have the means to investigate that and to find out.

On the other hand, the status, of course, is public knowledge and the status can be regulated.

Mr. Terney: We have no further questions [31] at this time.

Mr. McTeer: Give us five minutes, please.

(Whereupon, a five-minute recess was taken.)

By Mr. Terney:

Q. I have one more question:

Doctor, the allegation has been made by the plaintiffs in this case that the rule in effect is discriminatory against females. What is your feeling concerning this? A. Does the rule say parents?

Q. Unwed parents. A. So, it does not, certainly, on the surface, discriminate, but—well, in a sense, nature has discriminated without any governmental activity, inasmuch as it has decreed that women bear children rather than men. But if I understand correctly, the prospective teacher or the teacher being employed is asked, "Are you or are you not a parent of a child out of wedlock?".

Q. Correct. This appears on the application, form that they complete at the time they apply for a job. A. Well, it seems to me that either a male or a female could truthfully acknowledge or untruthfully [32] deny or lie about it.

A woman who has borne an illegitimate child, for instance, can give the child away for adoption; and a father of an illegitimate child can either keep the child with him or not keep the child with him; can either admit to the school board or lie to the school board, just as a mother can about the illegitimate child. However, I think that the mother certainly knows whether she has borne a child out of wedlock, and as I say, she can either

choose to acknowledge it or lie about it, provided she has given the child away, or the child lives not with her. And it seems to me that a father usually knows whether he is the father of a child.

I can hardly believe that a prospective teacher had sexual intercourse with a man so loose and so exclusively sexual and temporary and would not have notified the man that he has become the father of a child. And I can hardly believe that a male prospective teacher would have had a relationship with a woman so superficial and promiscuous, as not to know that he has become a father of a child after she has given birth to it.

[33] Hence, it seems to me there is no particular distinction, either male or female can truthfully state or lie to the school board, and there is no sexual distinction. It is a distinction in terms of truthfulness.

Mr. Terney: I have no further questions.

Cross-Examination

Examination by Mr. McTeer:

Q. Good morning, Dr. van den Haag, how are you? A. Fine.

Q. Dr. van den Haag, let me ask you this question, first of all:

Do you consider yourself an educator? A. Yes, I do.

Q. Do you also consider yourself a public educator? A. Yes, I do.

Q. Would you please state for the record all the degrees that you have received in specific educational fields? A. I will make that simple and say, I have never attended a school of education, and I have never applied for or received a degree in education. But I would

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[34] Q. Well, Doctor, let me get this point across and perhaps you can answer the question very specifically.

Have you ever had a course in early childhood development? A. Never.

Q. Have you ever had a course in childhood [35] development at all? A. I have given such courses.

Q. You have given such courses? All right.

Have you ever had a course that dealt with elementary education? A. I have given such courses.

Q. Please cite the course? A. I have given a course in early childhood education, which improves the mentally deficient, to my knowledge, at New York University several times.

Q. What is the age group of students that you have had most of your experience with as a teacher? A. Most of my experience has been with college students which, I think, range from seventeen and up.

Q. Have you ever had experience in elementary school teaching? A. I have never taught elementary school.

Q. Have you ever had any experience at junior high school teaching? A. Never.

Q. Any experience at senior high school teaching? A. I never taught except in college. Educationally, say, perhaps I have given lectures in high school, and [36] visited high schools.

Q. Further, you have had no experience in pre-school teaching; is that correct? A. That is correct.

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[37] Q. Have you ever had any particular involvement in the education of students within the South? A. I have never lived in the South.

Q. So, you have never been involved in elementary, junior high school, senior high school, or preschool in the South? A. Yes, sir.

Q. Have you ever been involved in any college education in the South? A. I have given some lectures, but I have never [38] taught there.

Q. Have you ever had any conversations with any of the members of Drew Municipal School Separate District or any of the administrators prior to the action about which we are here? A. No, sir.

Q. So, you have given no advice to any of these particular parties or to any particular policy which they have? A. No, sir.

Q. Do you consider yourself, on the basis of your previous testimony, to be more a theoretician in the field of sociology and psychoanalysis and psychology in reference to education, or do you feel yourself to be a practitioner in terms of education on the elementary, junior high and senior high school level? A. It seems to me a sort of impossible dichotomy for the simple reason the theory is about practice. It is an analysis of practice and an attempt to distill and find things correct and incorrect. If this is what you mean, I am certainly a theoretician.

Q. Thank you very much.

[39] Do you consider yourself an education specialist in any way? A. I really wouldn't know.

Q. All right.

Do you consider yourself to be a specialist in the field of reading? A. Certainly not.

Q. A specialist in the teaching of mathematics? A. Certainly not.

Q. Then what field do you consider yourself to be a specialist in? A. I am Adjunct Professor of Social Philosophy. That means to the extent to which you can call it a specialist, that means I am concerned with the norms and ideas prevailing in a society; ascertaining what these norms are; ascertaining whether they are justifiable

in terms of other norms; investigating how they are operative in various groups and societies, and so on. This specialty, if you can call it a specialty, and I am not sure, branches out, so to speak. My interest in sociology is, of course, an interest in the behavior of social groups in various social institutions, including education, but many others. And my interest [40] in psychoanalysis involves an interest in the effect of social institutions, such as the family, the school and so on, on children, and ultimately the effect of childhood on adults.

Q. So, then it would be a very clear statement to say that indeed you are a psychologist and indeed you are sociologist and indeed you are a psychiatrist. A. No, I am not a psychiatrist.

Q. A psychoanalyst. I'm sorry. A. A psychoanalyst and not a psychiatrist.

Q. Excuse me. But would you say very clearly that you are a sociologist and that you are a psychoanalyst? A. That is correct.

Q. Very good.

Do you think that most of the opinions which you have expressed here as to the education of elementary school students, junior high school and senior high and preschool students, is based upon your extrapolation of facts and figures, which have been collected by practical practitioners? A. Every scientist relies on data collected by others and, of course, on his own test of these data, and I [41] certainly do, too.

Mr. McTeer: On the basis of that testimony, I am going to object to Dr. van den Haag's testimony as an educational expert. Indeed, Dr. van den Haag is an eminent sociologist and, if I may say, psychologist and psychoanalyst; however, he has not shown himself to be eminently able to speak on the questions of education of people and practical aspects of said education.

Q. Doctor, one more question on that particular point: Could you please state for me your involvement with black students in elementary, junior and senior high schools and pre-schools? A. As I responded to your previous questions, I do not teach, except in colleges, and that goes for white and black.

Q. Thank you very much.

Now, on the point of role models, Doctor, which you did bring up earlier in your direct testimony, you seem to have given me the impression that mothers or unwed mothers or unwed parents, per se, make [42] improper role models. Would you please identify for me the components of a proper role model? A. I am not sure that I used the expression "role model." And I certainly am not sure that I could list for you the proper or improper components of such a model, because there is an enormous degree of individual variations.

Did you have in mind here a role model for her own child?

Q. A role model for her as an instructor in a school system. A. I see. Well, I would regard here as a proper role model, would be a person whose conduct conforms to the norms of the culture she is expected to transmit.

And what I would regard as improper role model, would be a person whose conduct does not conform to the culture and in the institution of the culture that she is to transmit to her or he is to transmit to her or his pupils.

Q. Well, Doctor, on the basis of that testimony, that's a very strong allegation.

Could you possibly give me some institutional studies or other studies that have been made which [43] support the proposition that an unwed parent is an improper role model for a student as a teacher? A. I must admit I don't understand your question, for the very simple

reason that once you say unwed parent, you have said improper role model. If we assume that the society wants parents to be married to each other, then a parent who is not so married is by definition an improper role model. The only thing that remains to be discussed is what the degree of his or her influence may be on students.

But it would be as though you were to ask me, why is a burglar an improper role model for students. Well, I could only answer that burglary is illegal in this society, and we don't want students to be taught that burglary is a valuable or good activity. The extent of the burglarizer's influence on the students is something else. But that the role model is improper, I think, as a matter of law, so to speak, the same I would say about an unwed mother. If the institution of the family and if wedded parenthood is projected, then it follows that a person who is an unwed parent is an improper role model, and I can't imagine any studies.

* * *

[45] Q. Now, Doctor, do you know of any studies that have been done by any institution or any other person that show the impact upon children of unwed parent-teachers? A. No, sir.

Q. Very good. Thank you.

Now, let me ask you this question:

Do teachers really have a great impact upon their students as to the morals and values of those students? A. The impact varies with the degree of like and admiration that the students have for the teacher. But the impact is invariably great in elementary grade schools and up to, I would say, junior high school. It decreases with age somewhat. There are, I think, numerous biographies and autobiographies of people who report on the man's impact that an admired teacher had on their own development and personality. I think it is indisputable

that when you have daily and intimate and extended contact with a person much older than you and you are very young and plastic, so to speak, that person will, whether he or she wants to or not, influence you and participate in the formation [46] of your personality.

I would go a step further and say that is the task of the teacher people. We send children to school, not only to learn arithmetic and other cognitive things, but also to become useful and acceptable members of our society; that is, to learn the accepted patterns and to internalize them. They internalize them not so much by what the teachers formally teaches but what he is and does in their relation to him.

Q. Doctor, may I ask you this:

Do you know of any studies which support your point of view, that a teacher has a clear impact morally on the value system of the student? A. I would say that such studies are impossible in the nature of the matter. They are impossible because, you see, the value system of the student and his personality, is affected by innumerable influences, the extent of which varies with the amount of contact that the student or child has. But we have, for instance, never been able to find out what specific chartered influence leads one student to become a criminal, another to become a homosexual, and still another to become a well-adjusted law abiding heterosexual. We have [47] all kinds of hypotheses, and each individual case, we are—not in each but in most individual cases, if we have protracted psychoanalytic interviews with the individual, we are usually able to trace specific influences whether of teachers, early childhood figures, parenthood and so on. But no general statement is possible, and I don't think any general study has dared to quantitatively determine the influence of schools versus home versus general environment and so on, because they would vary from child to child.

Q. On what do you base your opinion? A. On my psychoanalytic experience very largely.

Q. Thank you.

Do you know of any area in the United States or otherwise, where the practice of allowing unwed mothers to teach is allowed? A. I think it is probably allowed in New York City. I am not sure.

Q. What is the extent of the impact of the unwed mother on the New York City student? A. I do not think it would be easy to find out. Because, as far as I know, the school board in New York City does not ask the question, so we don't know how many unwed fathers or mothers teach. And I doubt that [48] they teach constantly in the same classroom as would be the case in a small town, such as Drew. So I don't know whether we can trace the influence on the pupils.

Q. Do you know how long the New York rule or New York lack of a rule has been in effect? A. No, sir.

Q. Doctor, let me ask you this question:

Is it your opinion that the basic morals and values of children are taught in the home or taught in the school? A. You are making this a disjunctive, or, and I would make it a conjunctive or—and/or. The basic values are taught those in the home and in the school. I think both are very influential. I think the school is more influential probably with lower-class children, and the home is probably more influential with a middle-class child.

The reason being that middle-class parents, usually have more time and take more trouble in educating their children; and the low-class parents usually have less time. This is only a frequency statement, of course, and therefore have somewhat less influence [49] on their children, and therefore, the school has more influence on the children.

Q. In other words, the lower-class children then basically for most the morals are taught in the school? A. I think that would go a little farther than I am willing to go. It depends very much on the individual. If you have a strong minded father or mother, and that strong father or mother, say, is religious or so, can greatly influence and totally prevail in the formation of the child's personality and value system, at least in a young age. On the other hand, if you have indifferent, not very strongly opinionated or minded parents, then the school can be very influential. So I can't really say for certain.

* * *

[50] Q. Yes. Sir, where were you educated primarily—your primary education? A. Primary education?

Q. Yes. A. In Italy.

Q. Under what system of education were you? Describe the system of education and which techniques were used in your education? A. You are making great demands on my memory. I was tutored privately for a very long time. I then went to the Italian Classical Gymnasium and Lyceum. In Italy the schools are all run centrally by the Ministry of Education, and the teachers become employed by passing certain examinations and being accepted again by the Ministry. The final examinations are given by the Ministry. That is, the Ministry sends a sealed envelope to the teachers and they are opened [51] at the same time all over Italy, if you pass the examination.

If you specify what you have in mind, I will try to be more informative.

Q. You have been quite informative.

Now, Doctor, I am going to ask you a series of questions and it will be very simple for you to answer yes or no.

Have you ever said, and I quote,—"Unequal scholastic opportunity, segregated or otherwise, in no way accounts for unequal achievement."

Yes or no, Doctor? A. I think this is a quote—

Q. Doctor, answer yes or no. A. —from a work by Christopher Jenks, called INEQUALITY, and I think I quoted him to that effect or paraphrased him.

Q. Doctor, have you ever said, and I quote,—"The family background of students determines academic achievement. The school does not." A. That is another paraphrase or quote from a work by Christopher Jenks called INEQUALITY, and I believe I quoted or paraphrased him to that effect.

[52] Q. Doctor, have you ever said, and I quote,—"I have argued since 1956 that the interior opportunity given blacks did not necessarily account for their interior performance; if a man in a dark room cannot see, chances are that the darkness is the cause; but he also could be short-sighted or blind, in which case light would not help, Jensen et al. have shown that this logical possibility is an empirical actuality." A. That is correct.

Mr. Terney: I would like to enter an objection to these questions as being completely irrelevant to the testimony of this witness at this time.

The Witness: Do you want me to answer this?

Mr. Terney: Yes.

A. Yes, the quote is correct.

Q. Doctor, do you subscribe to the theory that variance in the measurable intelligence of individuals is largely genetic, and that it might explain differences in academic performance? A. That is correct.

Q. Doctor, do you subscribe to the theory that heredity rather than environment is the overwhelming [53] factor in human intelligence?

Mr. Terney: We continue to object to these questions as being completely irrelevant.

A. No, sir, not in this form, but I would be delighted to give you an answer if you would let me expound on that.

Q. Just a second. You did not make the statement or you did? A. I don't know whether I made the statement, but you asked me whether I subscribed to the theory.

To the theory, I would like to say that I am not sure about overwhelming. I am not sure about the definition of intelligence. If you mean what is tested by the I.Q., then I should think this is determined to be between fifty and eighty percent by hereditary.

Q. Doctor, do you subscribe to the theory that the relatively high birth rate among ghetto blacks and others threatens downbreeding of the human race, and is creating millions of low intelligence babies? A. I haven't given much thought to that, and I would have to think about that, so I can't say offhand. There are various reasons why I think that is fairly unlikely, [54] but I'd rather not comment on it.

Q. All right.

Do you subscribe to the theory that a massive program of artificial insemination of mentally deficient women will be necessary to improve the intelligence of their offspring?

Mr. Terney: Objection.

A. I never heard of this theory and I certainly wouldn't subscribe to it.

Q. Are any of these points the theory of Dr. William Shockly, do you know? A. I do not agree with Dr. William Shockly's theories.

Q. Do you agree with some of the theories of Dr. Jensen? A. I agree with practically all of his theories.

Q. Is it true that one of Dr. Shockly's major supporters is Arthur R. Jensen, a University of California Educational Psychologist, whom you cited in a previous article, "The Tortured Search for Cause of Inequality" as support for your statement that the variance in measurable intelligence is largely genetic? A. I certainly quoted Dr. Jensen. I, as I indicated, agree with most of Dr. Jensen's theories. I do not [55] agree that his theories are identical to those of Dr. Shockly. He is known to me logically as a local prize-winning physicist.

Q. Have you ever made the statement that the proportion of slow learners is greater among the Negroes—these data are generally accepted?

Mr. Terney: Objection. I would like to show at this point a continuing objection to these questions.

The Witness: Would you please read it back?

Q. The proportion of slow learners is greater among the Negroes—these data are generally accepted. A. I certainly have not made this statement, but I would like to give you a statement, which I am sure you are aiming at.

The tested intelligence of Negro pupils is known to be between ten and fifteen points below, on the average, of that of white pupils. That may have effects on the learning process. Whether it will make them slow learners is a different question. It certainly has no specific effects on an individual member of the Negro community.

The data, incidentally, which you quoted, [56] comes from the James Coleman report and are, as you indicated, generally accepted.

Q. Doctor, have you ever made a statement that mixed education would impair the education of Negro and white children? A. I am trying to recall. I am not altogether sure whether I made such a statement. But if I did, I would like to modify it.

A great deal depends, in my opinion, on the conditions in which that mixed education takes place. And I should certainly favor mixed education of people of the same I.Q. level. And I should probably oppose or favor different tracts for people of different I.Q. levels.

Also, and perhaps this is what you are referring to, I believe there have been several articles in the Harvard Educational Review to indicate that Negro pupils speak a wholly different language; different from standard English. And to the extent to which that is true, they would suffer if they were educated in standard English and probably, I refer to that in the statement, which I don't recall, but may have made.

Q. Doctor, have you ever made the statement [57] that the quality of education can be improved for all—only if people are separated according to ability, and this very largely means race? A. Again, I don't recall whether I made this exact statement, but I certainly would agree that the quality of education is best and perhaps only improved if pupils are separated according to their ability, and that, at the present time, ability, as measured by I.Q., does follow racial lines often, at least, on the average.

Q. Doctor, have you ever made the statement, and I quote—"Instruction in schools for Negroes should attempt to remedy the disadvantages suffered by students coming from a culturally deprived home environment. This cannot be done except by separate education"? A. Yes, and I would enlarge it and say that it is equally true for whites coming from a culturally deprived home environment.

Q. Doctor, have you ever made the statement, if one uses an explicit criteria, certain achievements such as the invention of a written language or of the wheel, the creation of literature or arts and humanities [58] or mathe-

matics, the rule of law or medical progress, et cetera, then cultured achievements of Negroes in loco compare unfavorably with those of Caucasians, Chinese, Near and Far Eastern groups, et cetera? A. I believe I made that statement.

Q. Doctor, have you ever heard of the EMPIRES OF MALI, SONGAY OR GHANA? A. Yes, I have.

Q. Have you ever heard of the University of Timbuktu? A. Yes, I have.

Q. Was the University of Timbuktu an African University? A. This is a very controversial matter. Some historians maintain that it was an indigenous African institution. I have never called it a university before. Others maintain it was Arabic. My historical competence is not sufficient to pronounce myself on that.

Q. Would you then admit that the statement is, perhaps, incompetent? A. I certainly am willing to admit that I have conceivably made a wrong or incompetent statement. [59] But let me say once more, to my knowledge—to my present knowledge, I would confirm that African cultures, at least with those I am familiar with, are belittled.

Q. Of the twelve hundred African languages which have predated the present, and also were evidenced at the time of the University of Timbuktu, are you aware of any evidence which would show there were no written languages at that time? That would be, of course, in the twelfth, thirteenth and fourteenth centuries? A. I am not aware of any evidence that there was a written language.

Mr. Ladner: We would like to enter another objection based on the fact that this case involves public education in the United States, and to our understanding, no other kind.

Q. Doctor, have you ever made a statement, and I quote—"There is no reason to believe that God ever was an Equalitarian"? A. Correct.

Q. Doctor, have you ever made a statement that if there is a genetic difference between white [60] and Negro intelligence, the admixture suggests that American Negroes are likely to be smarter than African Negroes, though less intelligent than whites? A. Could you repeat that, please?

Q. If there is a genetic difference between white and Negro intelligence, the admixture suggests that American Negroes are likely to be smarter than African Negroes, though less intelligent than whites? A. Oh, I see what this refers to. I will have to explain that. I cannot answer this yes or no.

Q. First of all, Doctor, did you make the statement? A. I am not sure, but I think I could have—and I would like to explain in terms of my present notions.

I believe that one of the attacks against Arthur Jensen's theory was that he tested and relied on the tests made with American Negroes, and that these American Negroes were not racially pure but rather there was about thirty percent mixture of white genes.

Now, I pointed out that since the tests found on the average the measured intelligence—measured to the I.Q., to be between ten and fifteen points below that of whites. Then to indicate that [61] the tested blacks had admixture of thirty percent of white genes, would simply mean that if they didn't have that admixture, the difference between their tested intelligence and that of whites, would have been even wider.

That was the meaning of the statement which you just read to me, which I very well may have made in this context.

Q. Doctor, a couple of more questions:

The Jensen theory, which you have supported in numerous articles, is it not true that the Jensen theory is indeed one of the most controversial questions that has presently faced the educational sociological fields in America? A. Well, it's not very controversial among geneticists and among scholars. I think it is very controversial among journalists and idealogues.

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[62] Q. Doctor, have you done a great deal of writing in the National Review? A. Yes, I have.

Q. Doctor, have you ever made a statement, and I quote—"The attempt to establish inequality by law is immoral. The attempt to establish equality by law is ineffective, i.e. stupid as well as immoral"? A. I don't recall whether I made the statement. I am just thinking whether I should make the statement. Would you read it back to me?

Q. The attempt to establish inequality by law is immoral. The attempt to establish equality by law is ineffective, i.e. stupid as well as immoral. A. I would like to modify this a little bit.

Q. First of all, Doctor, was it possible that [63] you made the statement? A. It's entirely possible, but I am not sure. As to my present opinion, if you mean by "inequality"—or if I meant by inequality or equality in all respects, other than before the law, I would subscribe to the statement you just read. But I certainly did not mean that the law cannot establish equality before the law and equality in specific legal respects. That the law can do, and it is my opinion that the law should do that.

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Redirect Examination

[64] Q. Likewise, your views on the impact of genetic factors versus environmental factors, do not relate to this regulation, do they? A. I can't see whether, because someone becomes an unwed parent or anything else, would be related to genetic factors. Genetic factors are likely to influence a person's physique, skin color, and as we have now found, his ability to learn, which we call intelligence, as measured by I.Q. They do not, as far as we know, influence a person's conduct or judgment. I don't know much about talents and so on, but I think that most of these matters are largely to be co-determined by both genetic and environmental factors.

Q. To your understanding, does the regulation have a racial tenure at all? A. I was not aware of it, and I don't see, on the face of it, unless it is applied, of course, and that [65] would be true about any other regulation on a discriminatory basis. If it's applied equally, I think the chances of a white or black being an unwed parent are about equal.

Q. Have you had occasion, in your professional experience, to work directly with young children of school age? A. Yes. In my psychoanalytic practice, but not in my actual teaching.

Q. You testified earlier that you have taught teachers. A. Yes, I have.

Q. Was this in a graduate setting, non-lecture type of instruction? A. In graduate seminars as well as lectures.

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[71] Q. The testimony in this case also shows that there is a very severe problem of unwed parentage in the Drew district, within the age range of twelve years to seventeen years.

Would your view of the rationality of the regulation at all be affected by that knowledge?

Mr. McTeer: Objection. Again, irrelevancy, also improper redirect.

A. Yes. I would assume that the school district wishes to diminish the unwed parenthood in these age groups. I may point out that at least in New York, I don't know about that school district, these would be cases of a statutory rape, up to the age of at least sixteen, which, of course, in New York's jurisdiction would be regarded as a crime. Therefore, it would be part of the school authority's activities to start [72] to reduce and control this delinquent activity, and leads, ultimately, to unwed parenthood among such very young children.

Now, I would say that if you have unwed parents as teachers, that would certainly make it very hard for these teachers to, in effect, teach their students not to do what they have done. Hence, I would think that if the situation, is as you described, this would be a valid reason not to hire unwed parents as teachers, because your purpose is to reduce or control the frequency of unwed parenthood among pupils, and you certainly don't do that by having unwed parents as teachers.

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION

(Title Omitted in Printing)

DEPOSITION of DR. KENNETH B. CLARK FOR PLAINTIFFS, a witness, taken by the Plaintiffs pursuant to notice, held at the offices of Dr. Kenneth B. Clark, 60 East 86th Street, New York, New York, before a Notary Public of the State of New York.

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[2] DR. KENNETH B. CLARK,

the witness herein, having been first duly sworn by Henry Jacobs, a Notary [3] Public of the State of New York, testified as follows:

Direct Examination

By Mr. Walls:

Q. Will you state your name, please? A. My name is Kenneth B. Clark.

Q. Is that Dr. Clark? A. Well, yes, I have a Ph.D. in psychology.

Q. Dr. Clark, where is your place of residence? A. In Hastings-on-Hudson, New York.

Q. What is your official position? A. I am a distinguished professor of psychology at the City College of the City University of New York, and I am also president of the Metropolitan Applied Research Center in New York City.

Q. Dr. Clark, could you give us some of your educational and professional credentials? A. Well, I attended the public schools, including high schools, of New York City. I did my undergraduate work at Howard University in Washington, D.C.; recieved a master's in psychology

there, and Ph.D. in psychology from Columbia University in New York City, 1940.

Q. Could you briefly give us some of your recent writings or publications? [4] A. Well, I have published a number of articles on race relations in America, with particular emphasis on problems of prejudice, discrimination and segregation in human behavior, human personality.

My research has been primarily in the area of the effects of prejudice, discrimination on the human personality. In the last ten years, on community problems, ghettos, the effect of ghettos on human beings, the effect of racial prejudices and discriminations on human behavior in a social setting.

Q. Would it be correct in stating that your area of expertise is educational psychology, sociology? A. Education in terms of the association of human beings, how education and other social influences affect human images of themselves, attitudes and behavior, and that is my primary concern.

I have gone from that primary concern into the whole area of education, modification of human behavior.

Q. Are you the same Dr. Kenneth B. Clark who testified in the celebrated case of Brown vs. Board of Education? A. Yes, I am.

Q. Could you briefly give us the crux of [5] that testimony? A. The crux of it is what I have already said, that on the basis of research and writings we conclude that cruelty, of which racial prejudice is a form, affects the self-image of the victims, lowers their impression of themselves, their self-esteem, interferes with their effectiveness, and that segregated schools is an extremely important instrument in having these detrimental effects on human beings. Segregated schools as part of the total pattern of racial segregation.

That was the essence of our testimony at the trial level of the cases which led to the Brown decision. It was also the basis of the brief, the social science brief, which we prepared for the court.

Q. Dr. Clark, could you give us a list of your affiliations with professional organizations and any offices you may have held there? A. Yes. I am a member of the American Psychological Association; I have been a member of their board of directors and in 1970-71 I was president of the American Psychological Association.

I have been a member of it, a division of the [6] American Psychological Association, Division 9, the Society for the Psychological Study of Social Issues, and I think in 1963 I was president of that division, the American Psychological Association, and member of the board of directors.

Q. I believe you gave us a list of your publications, or mentioned your publications.

Could you give us the names of some of your books? A. "Prejudice in Your Child," which was published in 1965—I'm sorry, 1955, and "Dark Ghetto," published in 1965.

I have published books on education. The most recent one is a plan for increasing the effectiveness of education in children in Washington, D.C. schools. I think the title of that was "A Possible Reality."

I edited a number of books. One was with Talcott Parsons, a sociologist at Harvard, I think it was called, "The Negro American," about three or four years ago.

There is a list of the books and articles which I have written.

Mr. Myers: Just for the record, we have a list of articles and books published by Dr. [7] Clark and we would like to tender them as an exhibit of his credentials in this case.

(Five-page document captioned "Kenneth B. Clark: A Bibliography, Additions—July, 1971," was marked Plaintiffs' Exhibit 1 for identification.)

Mr. Myers: I would like to tender Dr. Clark's biography to be identified and marked as Exhibit 2.

(Biography of Dr. Kenneth B. Clark was marked Plaintiffs' Exhibit 2 for identification.)

Mr. Myers: I would like to tender this bibliography, bound, by Dr. Clark. Mark it for identification as Exhibit 3.

(Bibliography by Dr. Kenneth B. Clark was marked Plaintiffs' Exhibit 3 for identification.)

By Mr. Walls:

Q. Dr. Clark, I take it that you have done a considerable amount of study on the effect of discrimination on black children; is that correct? A. Yes, that has been my life work.

Q. Do you consider yourself an expert on the various kinds of factors which may affect the [8] learning process of students, especially black students? A. Well, this is the area of my research and writing, and I—I suppose others would call it an expert, but this is the area in which I have devoted all of my professional and much of my personal attention.

Mr. Walls: On the basis of the foregoing testimony by Dr. Clark, we at this point tender Dr. Clark as an educational and psychological expert.

The Witness: I am a social psychologist.

Q. Dr. Clark, you are familiar with the rule of Drew Municipal Separate School District which basically states that persons of unwed parenthood should not have responsibilities of working directly with students, i.e., teachers, secretaries and other responsible positions, are you not? A. I am familiar with that rule as it has been communicated to me, individuals involved in the case, yes.

Q. In your professional opinion, do you see any educational viability or educational or rational basis for such a rule? [9] A. No. On the basis of my understanding of that rule, I see no positive educational reason or purpose for such a rule.

On the contrary, I see, from my perspective, a very important negative educational function or consequence of such a rule.

For example, as I understand the rule, it applies only to unwed mothers, females. It does not apply to males.

It seems to me that this is a clear discriminatory rule which would necessarily have negative educational value and consequence.

Q. Dr. Clark, briefly let me clear that up. The rule, as stated by the superintendent, Mr. G. F. Petty, of the Drew Municipal Separate School District, states that the rule is applied to both male and female unwed parents. A. That was not my understanding of the rule.

Q. But the facts show that only females have been affected because no males have been discovered at this point. A. Well, it would seem to me that for this rule on this point of sex discrimination not to be discriminatory, it would follow that each time that [10] a female were denied the right to teach or to be in any way involved in the educational process by virtue of being an unwed mother, at that very time and in that particular case the discovery and the finding of the other partner in parenthood, namely, a male, would have to be pursued.

If that were not done, in spite of the theoretical nondiscriminatory aspect of the rule, it would be in effect a discriminatory rule. It would mean that only the female would be punished or excluded or blocked from participating in an important social process while the male, while technically being as, quote, guilty as the female would nonetheless be unpunished.

Q. Do you see— A. By the way, I do think this is an essentially—a punitive rule rather than an educational rule of any educational value.

Q. Do you see any practical reason as to why females are usually affected by this rule and males, let us say, are not affected by this rule? A. I see a number of reasons. Historical, the historical reason is that our society does have a long history of discrimination against females on [11] matters of sex and sexual behavior. These rules and regulations are generally made by males, enforced by males, and they would seem for the most part designed to subordinate females to an essentially inferior role, which the power of our society is mobilized to reinforce.

It is clearly a male dominating approach to human problems and human behavior.

Another reason, of course, is the clear and unquestioned biological fact that the female bears the child, and there is no way in which it is possible for a mother to deny maternity. It is possible for a father to deny paternity, and her society can therefore zero in on the female and enforce punitive roles or punitive techniques on the female.

Q. Does the fact of unwed parenthood have anything to do with the direct ability of a person to teach or to present the proper image of the teacher to a child? A. The fact of unwed parenthood in itself does not, in my opinion, bear directly on the role and function of a teacher.

As I see it, the function of a teacher in the [12] elementary grades is to communicate certain academic skills to children, to help them to become more effective and efficient in basic skills of reading, writing, arithmetic, and to become sufficiently competent in these skills as to be able to think more clearly as the child grows.

So I, for one, do not see where the role of a teacher or the sexual behavior of a teacher in itself bears directly upon the skills.

I do believe that if a teacher is neurotic, if a teacher carries over into her classroom behavior or his classroom behavior certain psychological or behavioral qualities that interfere with the ability of that teacher to function effectively as a teacher, that is another matter.

Where the personal behavior of the teacher, including sexual behavior, does not enter into the classroom and does not interefere with the ability of that teacher to develop the skills of his pupils or her pupils, I just do not see—

Q. What are the basic qualifications of the teacher, with emphasis on elementary and secondary education? A. Well, to me, the essential qualification of [13] the teacher is competence in the ability to develop skills in his or her students.

There is also the important role of a teacher in communicating to the students the importance of these skills. The teacher certainly can't teach something that he or she clearly is not competent in.

For example, a teacher teaching reading ought to clearly demonstrate the ability to read and to communicate also some sort of excitement and enthusiasm about reading.

A teacher who is unable to spell certainly can't communicate to students the importance of competence in spelling, and arithmetic.

I do believe that in addition to these basic academic skills and competences a teacher ought to communicate to students, even from the early grades, the importance of other human characteristics.

I have written and argued that kindness, compassion, sensitivity, respect for other people, are important qualities which educated human beings should have, and while the

home should play the primary role in communicating these qualities to children, they should be reinforced by school and by teachers.

[14] Q. Is there a personality or sensitivity component to a teacher's ability to communicate knowledge? A. I don't think there is any question about it. In fact, my recent papers have all been emphasizing this more and more.

I have argued in my writings and in talks that the ability of a teacher to accept the humanity of the students, to respect the humanity of students and to communicate to the students this positive respect and acceptance, these are, I believe, very important factors in teaching effectiveness.

Q. Is this in any way related to unwed parenthood? A. I do not see that unwed parenthood in itself interferes with either the technical academic competence of teachers or the ability of a teacher to communicate to students the genuine acceptance of the humanity of those students or qualities of kindness, sensitivity and love.

I don't see how unwed parenthood in itself can do that any more than divorce can do it, or separation, or being unmarried.

I, for my own, do not see where any of these [15] factors operating in terms of themselves can or do in any way influence the effectiveness of the teacher.

Q. During the course of this proceeding with which we are involved, several witnesses have testified about the term "role modeling."

Are you familiar with the term? A. Oh, yes. It's a rather common term for social scientists and educators.

Q. Would you please explain that? A. Well, in effect, it means in the most simple terms that in the process of growing up human beings look to other human beings for what are considered desirable characteristics, and sometimes undesirable, and that adults, particularly significant adults in the life of every human being, become a model of what that particular individual will strive toward.

And by the way, in some cases role models can be negative; that is, the individual can be used as a model of what the individual does not want.

Generally the term role model, however, is used in positive terms. It means that the growing individual looks to adults, and sometimes older peers, as the model for their own behavior and attitudes and feelings.

[16] Q. What are the components of role modeling? A. Well, a number of things: speech, style of dress, general personality and attitudes, religion.

Almost every aspect of the individual's being, short of those which are determined by physical genetic determinants, you know, such as height or skin color, anything that the individual learns or is capable of learning, may be influenced by what is called in the shorthand a role model, someone whom he looks up to generally and seeks to imitate.

Q. Do teachers generally affect the moral values of children, and if so, how? A. I think teachers and other adults do affect the values of young people who come in contact with them, yes.

Q. Is unwed parenthood a component or a part of role model? A. If it is so described, yes, it may be. If a particular community or school makes an issue of this, it may very well be a factor influencing the judgment of the child.

Q. It has been testified here by other experts that teachers along with cognitive knowledge also give students or teach students the cultural heritage [17] of the society.

What is your opinion of that statement? A. I think that is a generally true statement, yes, because as you pointed out in your earlier questions, teachers not only

communicate academic knowledge, they communicate an approach toward human beings, a style of life.

In that sense, they contribute to what we call the socialization or the acculturation of the younger generation.

Q. Does unwed parenthood have anything to do with the moral conditions or the status of the said unwed parent? A. No. Again I can give you my opinion. I think it is a mistake, and a mistake that is unfortunately not uncommon in our society, to equate unwed parenthood with morality or a sexual behavior.

My personal judgment is that unwed parenthood for the most part reflects the inability or the lack of knowledge of the—on the part of the female, for the most part, or the male, as to how to avoid unwed parenthood, if it is undesired.

The evidence is very clear that it has nothing to do with morality, it has nothing to do with sexual [18] behavior; it has to do only with the degree of sophistication necessary to control this consequence, this particular consequence of heterosexual behavior.

The comparison or the use of statistics to make judgments about the relative morality of different groups in terms of the percentage of unwed mothers is a very misleading approach to an important issue.

Q. I guess in line with that same statement is the inevitable that a teacher who happens to be an unwed parent will express certain dispositions or moral values to their students or their children simply because that person happens to be an unwed parent. A. Are you asking do I agree with that?

Q. Is that— A. I think absolutely not. As I was just trying to tell you, that I think that the fact of being an unwed mother has nothing to do, as far as I can tell from my readings and study, and in my own judgment, with that person's basic values or morality.

It has to do only with the amount of specific knowledge that that person has about preventing birth or conception, and I do not see that this is in any way related to moral values.

[19] It has also been inferred and testified in this hearing, in this proceeding that you are testifying in today, that unwed parents are unable to teach good moral values. A. I just said to you that I think that that is very spurious, misleading, and by this time it would seem to me that anyone who says this is either deliberately misleading his audience or is ignorant. There is just absolutely no basis for making that statement.

Q. Where are moral values taught? A. Where are they taught?

Q. Where are they taught? A. They are taught many places. They are taught in the home, they are taught in church, they are taught in the community. They are taught in schools. They are taught in the interaction among peers.

They are taught in the media, you know, newspapers, radio, television, moving pictures. There is no one place that individuals are taught, where individuals are taught moral values.

Q. It has come out in this hearing that a great impact of teaching moral values comes from the school, where, on the other hand, it has also been [20] testified that the home plays the greater importance and the greater impact on the teaching of moral values than the schools. A. I do not get into that kind of controvery. If you read "Prejudice and Your Child," or any of my other writings, I do not believe that anyone can say with any degree of certainty or precision or confidence that any one part of society plays any more crucial a role than any other part.

I am, I guess, basically a gestaltist. I believe in the totality of influences impinging upon and influencing human beings, and the whole is important, the schools are important, the larger social atmosphere is important, the media are important.

All of these converge on an individual and influence individuals in terms of their relationship to all other influences.

Q. From your experience and in your professional judgment, do you have knowledge whether children generally and typically find out about the private and/or sex lives of their teachers? A. I think that carries only in a situation in which it is deliberately imposed. I ordinarily—it would seem to me in a healthy situation children [21] are not generally involved or have direct or specific knowledge of the sex lives of their parents, much less their teachers.

When an effort is made to intrude this type of knowledge or information, then it becomes a factor. But ordinarily this does not happen.

Q. In your opinion, how could a teacher express to a student his private sex life? A. As I see it, only by direct communication or by being the victim of gossip or rumor, or something of that sort.

I really don't understand that line of questioning, except that, you know—

For example, in my own operation here at the Metropolitan Applied Research Center, I have no knowledge of the sex life, the personal sex life, of members of my staff. I have no knowledge of the sex life of my students at the college. That is not my affair.

Q. The basis for that question is that some experts in this hearing have testified that the only way that a teacher could influence the sexual behavior of a student is to, say, proselytise that sexual behavior in the presence

of the student, that is, [22] possibly have sexual relations in the class, where, on the other hand, it has been testified that students infer from just the status of the teacher what that sexual behavior is, i.e., unwed parenthood. A. I don't know that I am the best person to discuss it. I just happen to believe that the personal lives and the sex lives of individuals are, these are personal matters, and I believe are protected by the rights of privacy and protected by moral concerns.

I think that it is immoral for individuals to pry into the personal or sex life of other individuals.

I believe that it is questionable morality for individuals to impose their personal sexual patterns or gratifications upon others where that is not a particular concern.

So I—I'm afraid that I'm not being able to deal with your question because my whole perspective on this matter is that it is an area of privacy. I don't want anybody interfering with my sex life or asking questions about it, unless it is directly related to my relationship with them, any more than I want them asking about my methods of dealing with my urinary and defecatory functions.

[23] Q. Do you know of any contrary opinion or—

A. I don't understand you.

Q. —contrary opinion as to what you just stated?

A. I think that the whole—what I consider obscene preoccupation with censorship and invasion of human privacy seem to me to be contrary to this opinion.

Q. Dr. Clark, do you know of any educational studies or reports or treatises, or whatever, that show that unwed parenthood has a detrimental effect on students? A. No, I don't know of any such studies.

I also don't know of any studies which show that a teacher having an abortion has any detrimental effect on students, or I don't know of any studies which show that teachers who are divorced have any detrimental effect on students, or teachers who are separated.

To really take it one step further, I don't know that there are any studies which demonstrate that homosexual teachers have any detrimental effect on students short of an attempt on the part of a homosexual or a heterosexual teacher to proselyte or to [24] seduce a student.

There I draw the line. I don't think that it is the role—I think it is an abuse of role and authority of any teacher to attempt to exploit a student sexually or any other way. I think that it is an abuse of a role for a teacher to attempt to exploit a student economically or maybe even in more subtle human ways.

Q. Just one question about something that has come up in this hearing before.

Does the use, in your opinion, of contraceptive devices or the use of abortion to prevent birth express any morality about the person using such contraceptive? A. I am afraid that I am repeating myself. I said, and I will repeat now, that it is my personal opinion, it is my philosophy and it is my opinion as a psychologist that the whole realm of sexual behavior of an individual is to be excluded from judgments of that individual's professional area of competence.

I can't say that any more strongly. I think that the right of the individual to this area of privacy should be inviolate and inviolable.

Q. Just briefly, would the mere fact that a [25] teacher is an unwed parent in your opinion be an influential factor in schoolgirl pregnancies?

It has been testified that that is the reason that this rule—one of the reasons this rule was implemented, and the— A. I am sorry, I just can't take that seriously. I think that young girls become pregnant through sexual behavior. They don't become pregnant in a classroom.

I'm not being facetious. I really think that that is an absurd statement and an absurd question.

Q. You earlier testified that if unwed parenthood were made a controversy in a community then it would possibly affect students. A. Sure. Anything that becomes a controversy, if you raise the issue of the height of a teacher as to whether this affects the competence of the teacher, certainly you will create a situation in which not only students but everyone else would start looking at teachers in terms of their height.

That affects, sure. If you say that a teacher is a witch and you get people talking about this, is this person a witch or is this person not a witch, and stir up discussion and pros and cons on this, [26] without question that's going to influence the ability of that teacher to deal with her responsibilities in that classroom, because it would have influenced the amount of attention that the students will or will not have paid to what is being said, what is being said in the classroom rather than what is being said outside of the classroom.

Q. In a community where you have a large number of black children, say, eighty per cent black children in the school district, and you also have a large percentage of children born in that area being born to unwed parents, do you see any detrimental effect that a rule like this could have on, say, black children? A. Well, I think that this rule, my interpretation of this rule in the light of everything that I have told you about my personal philosophy, is that the purpose—the only purpose that I can see for such a rule is a punitive one, that it is a rule that comes out of a history of Puritanistic punitiveness, it comes out of an intentional or unintentional discriminatory punitiveness directed toward females.

It is a dehumanizing rule in that it imposes upon human beings a stigma which to me is absolutely [27] unnecessary, except in terms of cruelty.

It imposes a stigma, an unnecessary stigma, upon the children who are the products of, quotes, the unwed situation of the mother, and it imposes a discriminatory cruelty upon the mother.

I see no other function for such a rule. It certainly has no intrinsic educational function. It has no social function. It has, as far as I can see, only a dehumanizing and stigmatizing function.

Mr. Walls: That is all I have.

Mr. Myers: Dr. Clark, do you have any affiliation with the New York system of higher education?

The Witness: Well, I am a member of the Board of Regents of the State of New York, and this is the governing body for all education in the State of New York, elementary, secondary and higher.

By Mr. Walls:

Q. Dr. Clark, have you ever heard of the use of this rule in any other place, or have you heard of the use of this rule before? A. No, I haven't. I have not ever before heard of this rule being explicit.

[28] I have heard of discussions on homosexuality as a factor that could be used to exclude teachers, but I have heard that more in discussion rather than a flat rule to the effect that a homosexual teacher should not be a teacher.

Q. Would the Board of Regents have authority to make such a rule in the State of New York? A. I think in terms of the Constitution of the State of New York and in terms of the statutes, the education laws, that the Board of Regents would have such an authority.

I personally doubt that it would exercise any such authority.

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION

(Title Omitted in Printing)

DEPOSITION OF EDMUND GORDON FOR PLAINTIFF, a witness, taken pursuant to notice, held at 125 West 120th Street, New York, New York, on May 29, 1973, at 2:30 o'clock p.m., before a Commissioner of Deeds of the City of New York.

* * *

[3] EDMUND GORDON, having been first duly sworn by a Commissioner of Deeds of the City of New York, testified as follows:

Examination by Mr. Myers:

Q. Prior to beginning, Dr. Gordon, I would just like to say there are some things this afternoon that I am going to ask you that possibly sound ridiculous and repetitious. Nevertheless, to the best of your ability, I would like for you to try and be as responsive to my questions as possible.

I know that some of the things you will hear time and time again but in order for us to make a record and to refute some of the things that have been submitted and tendered in this cause of action we have to do this.

Now, for our record again, I would like for you to please state your name. A. I am Edmund Wyatt Gordon.

Q. Mr. Gordon, where do you currently reside? A. Pomona, New York.

Q. How long have you resided there? A. For 19 years.

[4] Q. Are you employed now? A. Yes, I am.

Q. Dr. Gordon, where are you employed? A. I'm employed at Columbia University. It's Teacher's College which is its Graduate School of Education.

Q. Would you tell me in what capacity are you so employed at Columbia University? A. I carry several titles here. My principal title is that of Professor of Education. I also serve as Chairman of the Department of Human Development and Guidance.

Q. What degree do you hold? A. I hold four degrees. A Bachelor of Science, a Bachelor of Divinity, a Master of Art and a Doctorate Education.

Q. Dr. Gordon, where did you receive your Doctorate of Education? A. At Columbia University.

Q. Dr. Gordon, how long have you been specializing in the field of education? A. I combine psychology and education. I have been in Higher Education off and on since 1945 when I first worked at Howard University. I left Education to go into Clinical and Counseling Psychology from 1950 to about [5] 1958 when I returned to Higher Education, and have been in Higher Education from 1958 to the present.

Q. Thank you.

Now, Dr. Gordon, have you had an occasion to publish any articles in any major professional magazines during your career? A. Yes. I have published about 60 articles in technical and professional journals.

Q. Would you be so kind, Dr. Gordon, as to give us some of the better-known or more eminent articles that you published in the area of Education, especially Public Education. A. In the Journal of Orthopsychiatry I have published three articles dealing with the education of poor children, generally called Compensatory Education.

I have edited two issues of the Review of Educational Research, which is the Journal of the American Research Association, both of these dealing with problems of Education in Elementary and Secondary Schools.

I have published in the Journal of Comparative and Physiological Psychology articles dealing with child development.

I have published in a magazine that is published or was published by the Children's Bureau called [6] Children.

I have published in the—

Q. Just for the record, doctor, I think that's sufficient because I have a document which I would like to identify for the record which is basically a list of publications and scholarly notes that Dr. Gordon has written and also a list of books.

Sir, have you had occasion to write any major book or any book in any areas? A. My major book is entitled Compensatory Education, Preschool Through College.

Q. When was that published, doctor? A. That was published in 1966 by the College Entrance Examination Board.

Q. Fine.

Dr. Gordon, would you be so kind as to, as succinctly as possible, list the professional or better-known organizations that you are a member of. A. Well, I'll start with those in which I am a Fellow.

I'm a Fellow of the American Association for the Advancement of Science. I'm a Fellow of the American Psychological Association. I'm a Fellow of the American Orthopsychiatric Association. I'm a member of the American Personnel and Guidance Association, the [7] American Educational Research Association.

Those are the principal organizations.

Q. Thank you.

I believe moments ago, sir, when you were listing your degrees, that you stated that you had had some involvement with the clergy.

I believe, a Bachelor of Divinity? A. A Bachelor of Divinity, yes.

Q. Are you a member of the clergy? A. Yes. I received my Bachelor of Divinity in '45 and was ordained in '45 as a Presbyterian Minister.

Q. Thank you.

Dr. Gordon, on your list of scholarly works I believe it has been noted that you have been involved in several or quite a few, I understand, national studies.

Would you explain for the record and to Judge Keady the nature of these studies and what you were involved with in doing these studies? A. Yes. I was commissioned by the College Entrance Examination Board to do a national study on programs on education for poor children back in the early 60's. That was also in the book that I referred to earlier, Compensatory Education.

[8] I was commissioned by the Ford Foundation to do a study of Higher Education, a report which has just been submitted and which will be published in the fall as a book.

I was commissioned by the U. S. Office of Education to do a study of exemplary programs in Elementary and Secondary Education, a report which was completed last year, which is now being edited and a book to be published next spring.

In addition to that specific study I served for two years as the National Research Director for Project Head Start which took me into most of the states and most of the school districts in those states, those that had preschool, kindergarten and Head Start programs, doing research of them.

* * *

[9] A. I am familiar with it as it has been reported to me.

Q. For the record, the rule essentially states that an unwed mother or, for that matter, an unwed father should not and cannot be allowed to teach in the classroom.

It has been stated by the Superintendent for the Drew Municipal School District that unwed mothers would not be employed because of a detrimental effect that it would have or will have on the development of children in Secondary Education or on a Secondary Education level and also elementary level.

I would like to receive from you a response based upon your professional ability to give a response [10] as to what is your opinion of this particular rule in terms of its validity or non-validity, in terms of its rationality or irrationality. A. I would say, Attorney, that while I can partially understand what the people who are advancing this rule may have in mind I must say that it is both ineffective and ludicrous.

It's my judgment that the marital status of parents has no relationship to effectiveness as a teacher or employee of a school system or any other institution, for that matter. The fact that a parent has not been legally married in our society seems to me to be an irrelevant consideration particularly since it's impossible to make judgments with respect to the cruciality of such a condition. Maybe I'll explain what I mean by that.

Q. Yes, go right ahead, doctor. A. I suspect that people who advance such a position use marital status of parents as an index to the character, the morality and the values held by persons.

The circumstances under which persons become pregnant and bear children or become the conceivers of children are such that it is difficult to make judgments about morality and character based upon those circumstances [11] or even the—and certainly not the—simple fact that pregnancy has occurred.

It might be argued that the difference between pregnancy or absence of it in some instances may be more a function of income level or culture or a variety of other

circumstances than the character of the values held by the person who has become pregnant or who contributed to it and I'm assuming that we are dealing with both.

In this rule I think it may be far easier for us to focus on the female than on the male since the contribution of the male is much more difficult to identify and make obvious.

Q. Fine.

Doctor, an expert for the State of Mississippi and the Drew Municipal School District got into the question of role modeling in the classroom.

Now, it was his contention that a teacher is a role model and that a role model should maintain certain levels of prestige in order to be sent out as an example, and it was also his contention that an unwed mother was not a role model and consequently she was a bad image and constituted a detriment to children, in the educational process.

[12] Could you tender a response to that? A. Yes. Fortunately, role modeling is not a generic phenomenon. I am not a universal role model. Role modeling is quite specific and there are very, very few situations that I can conceive of where teachers' marital status, parental status or sexual behavior constitutes a target behavior that they are modeling in school.

The aspects of their behavior that youngsters are much more likely to be influenced by have to do with the relationships between the youngster and the teacher, the way in which the youngster feels about this person's treatment of him or her, the extent to which the youngster sees himself or herself respected by the person.

Now, if one is arguing that the unwed parent is modeling unwed parenthood, one shall also have to establish the fact that this was, number one, known; number two, that the youngster or youngsters involved were using the

teacher as a role model for parenthood or marriage or any one of those attributes.

The fact is that it would appear from the little bit of research we have on this subject that as far as parental behavior, parental attitudes, parental models, are concerned, these are much more peculiar to [13] the significance of adults in the homes in which youngsters grow up.

When it comes to learning behaviors and some public social behaviors—and by that I mean the way in which people relate to each other, treat each other—these are more likely to be modeled and developed in the community, and the school, of course, would be, of course, a part of the community, so that the assumptions that the parental status of the school employee now is important because of its impact as a model for a youngster, I think that this is a misinterpretation of the function of role modeling.

Q. To illustrate, on a point that you discussed moments ago, and I'm going to ask you this very directly, do you feel that unwed parenthood has any direct relationship on a child's ability to learn? A. I do not feel that it does, so the answer would be no. I know of no evidence that would even suggest that it does. There are—it's hard to even conceive of a circumstance in which that relationship would be deleterious to learning.

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[14] Head Start Director; am I not correct? A. Correct. Let me correct that. It's the Director of Research for Head Start.

Q. I'm sorry. Thank you.

Now, in your travels and through your experience—how many states, by the way, did you go to? A. I think I've been in about 40 of the 50 states.

Q. Now, in your extensive and exhaustive experiences, have you ever come into contact with a rule like this before? A. I have certainly not come across that particular rule anywhere, and hastily reviewing, I can't conceive of any school district I have been in where that kind of standard was established for employment in public schools.

Q. To the best of your personal knowledge as a professor here and one who is obviously very familiar with New York City, I'm sure—the public school system—do you know whether or not the State of New York or the City of New York has such a rule? A. No, I don't know of such a rule in New York State and, given the position that the School Board has taken on a number of issues, and the Commissioner has taken on [15] a number of others, and the Board of Regents on still others, I would venture to say that such a rule could not exist in New York State.

Q. Would you care, sir, to tender some response why you believe that the New York State school system would not contrive such a rule? A. I think probably, number one, being a state that has a relatively high level of organized labor within its school ystem, the rather reactionary character of the law and its discriminatory character would make it unacceptable to the organizations that represent teachers.

Number two, I think that school officials probably would, as a rule, feel that would be difficult if not impossible to enforce, certainly to enforce with any equity.

Thirdly, not since the early part of this century have school districts in the more enlightened areas sought to monitor and control the personal and private behavior of teachers.

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[16] The attention has been more sharply focused on more technical qualifications, on competence, on those aspects of teacher and staff behaviors that can be demonstrated to have a more direct effect upon the development of children.

Q. Now, Dr. Gordon, there's one undercurrent thesis on the part of the Superintendent of the Drew Municipal School District, and now, obviously, the Board of Education, and that is that there is some correlation between pregnancy of school-age girls and having an unwed mother in the classroom.

To be more particular, it was asserted that there had been a rise of pregnancies in this particular school district and the Superintendent of Education argued to correlate the rise of pregnancies with the presence of unwed mothers in the classrooms.

Would you care to give me a response on that? A. Yes. Unfortunately, there's a long tradition of error in moving from correlation between things to assumed causation and the fact that these two figures may correlate, of course, has nothing to do with a causal relationship between them. I suspect that if one looks [16A] at the other demographic and etiological characteristics of that community you may find correlations with a number of other variables there.

[17] My own judgment is that people do not elect to become pregnant out of wedlock. Perhaps I should modify that to say that I suspect that most people who become pregnant out of wedlock do not elect to do so. I suspect that they do so because they have taken a position on the rightness or wrongness of it. My colleague here at the University in the Department of Health Education, Professor Mal Fetti, argues that it isn't information about sex that gets young people into trouble with respect to their sexual behavior, it's the feelings, the sexuality

itself, and what we have in persons who become pregnant out of wedlock isn't a breakdown of morality and ethics or character, it is more likely related to circumstances in their life that do not enable them to adequately deal with sexuality and the models that are available to them, I think, are unimportant there.

Q. Now, the general consensus, ostensibly, of the Drew Municipal School Board in regards to the undercurrent of the issue, has to do with morality, and it seems though that the proposition is that an unwed parent—unwed mother or an unwed father—is an immoral person.

I would like to get your response for [18] the record, doctor, to that proposition that unwed parenthood is either synonymous with immorality or is immorality incarnate.
A. Well, this is a very difficult issue to deal with, and one of the reasons why it certainly should not be established as a rule.

It's interesting that in the current period that if you live in a state that has had very high resistance, say, to permissive legislation with respect to abortion, the discontinuance of a pregnancy is an immoral act for these people.

One would wonder how one distinguishes with respect to the degree of immorality when one has a conflict between one person who is pregnant out of wedlock and the other person who is pregnant, chooses not to become a parent, but aborts the child instead.

Now, the paradox of contradiction represented here, I think, points to the fact that the issue is really drawn at the wrong point.

Morality does not adhere to parenthood. I think morality, if it adheres to any part of the process, adheres to the act of conception.

Now, if we go back to the act of conception we really are talking about sexual intercourse, and here, [19] in

our society we have, at least publicly, taken the position that sexual intercourse out of wedlock is not only illegal but some people would argue immoral.

But it doesn't sound as if your school district now is setting up sexuality, fornication, as its task, which is the implied basis for the morality. What they are saying is that if you are stupid enough or honest enough or religious enough to bear a child, having conceived it, then you are immoral.

And it seems to me that that is an intolerable position for the Board to take.

Number two, if we go back and talk about now the way in which one manages one's sex life as being the basis for judging morality or immorality and if we begin to look at the statistics with respect to out of wedlock intercourse, it would appear that in our society, that the presence or absence of such behavior is an incorrect basis for judging morality, since better than 50 percent of our population is thought—by the most recent studies of sexual behavior in males and females—to participate in intercourse outside of wedlock.

Now, when a behavior becomes the norm for a [20] society it seems not only to be ridiculous but I would think poor law to try to declare such behavior as illegal, since our laws are supposed to represent the mores of our society.

So what I'm saying is, that it appears from the statistics available that intercourse between consenting adults is an accepted fact in our society, so that it is no longer appropriate to call that an immoral act.

The School Board's position seems to be suggesting by implication that sexual activity out of wedlock is immoral. They are taking as their evidence the fact that pregnancy—which I think is discriminatory—is the basis for the immorality, for the sexual behavior of the persons.

They can either modify the sexual behavior—even if they ever could they might find that the rule is inconsistent with the behavior of most of the people in the society. These considerations lead me to conclude that the rule, of course, is inappropriate and, of course, unenforceable, with any kind of equity.

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[24] However, we have no evidence that the nature of the school experience makes any difference with respect to the moral development of youngsters.

The few studies that have investigated this issue find that in the absence of specific concrete work on value concepts, moral concepts, that schooling and the kind of schooling one has, that is, whether one is in a religious school or a nonreligious school, whether one is in a school which gives some attention to civics and social studies, seems to make little difference in the overall behavior of youngsters.

Where youngsters are deliberately taught, though, certain social studies in the school experience, they do tend to state those attitudes more frequently than those youngsters who are not so deliberately taught.

[25] So, again, the research on the subject would seem to suggest that the most pertinent influence on moral and academic development is the home; that schools can have an influence on the development of specific academic skills, and that they tend to have relatively little impact on the so-called moral development of youngsters.

Q. Dr. Gordon, is it inevitable that a teacher who happens to be an unwed parent will express certain dispositions of moral values to their students simply because that teacher just happens to be an unwed parent? A. No. And if I may refer back to some of my previous testimony, since there are so many factors that enter into

both parenthood and the conditions and circumstance of parenthood, this is not a homogenous group we are talking about.

Clearly, there may be a person in the world who is married or unmarried or whose general circumstances of life may be such as to influence what one says or does or teaches or does not teach to a particular group of children.

But the fact is that factors associated with married status of parents are so complex that one [26] cannot make this kind of generalization, nor is there evidence to support the assumption that there would be a greater likelihood of such parent creating a negative influence than, say, people who have prevented pregnancy by contraceptive devices or people who have abstained from sexual expression entirely.

In fact, I think if I had my choice I would probably shy away from the person who had completely abstained from sexual behavior, because, again, in our society that is so atypical a pattern of behavior as to suggest some possible personal problem—less so, I would say, than a person who happens to have become pregnant possibly by accident out of expression of a normal aspect of behavior.

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[27] I think the chances are that in a relatively small community the personal lives of members of the community are likely to be public knowledge. However, what youngsters do with that knowledge depends upon the mores, the norms, established in that community, and the role that the person whose behavior they have focused on plays in their life.

If one has chosen a particular person as one's model for parenthood or for sexual behavior or for social behavior, then, conceivably, that aspect of his or her behavior may

become important. But if one has chosen this particular person as one's model for a number of other behaviors, it may be quite irrelevant.

In some circumstances it may even be that if—well, if we take the community you are talking about where I suspect if there is a large number of low income people and a large number of black persons, I suspect that the incidence of out of wedlock [28] children may be relatively high. Under such circumstances, this knowledge on the part of youngsters about a teacher would seem to me to have no relative effect; conceivably could have some positive effect in that it may make the person more a part of the style, culture, mores of that community.

The latter statement may be a bit of an extended remark, but certainly I would find no negative influence angle.

Q. I'm glad that you mention that, Dr. Gordon, because in the Drew Municipal School District, and in the high school, in particular, I believe that 80 percent are black.

There are figures to show that out of an approximate 710 children born—let me give you the exact figures—I believe out of 709 total births in Sunflower County—and this is where the school is—that it has been shown that 316 of those births were born out of wedlock and that approximately—this is of non-white people I'm talking—approximately 316 were born out of wedlock and have a percentage total of 44.6 percent—the children born—non-white children born—in this particular county, were born out of wedlock.

[29] Would you make a comment in terms of that, because that seems—it is a race issue—and I would like you to get into that. A. Well, there are two points that ought to be made from those figures.

One has to do with the fact that when the proportion of persons showing any behavior approaches fifty percent of a population it is difficult to avoid the conclusion that a social norm has been established, and social norms are generally thought not to have deleterious effects upon the development of other people, all the people who live in that society, in that culture.

However, the second point which is also terribly important—and one that we tend to neglect—is that there are various concepts of wedlock. There is, of course, the legal one when one has a formal marriage, a license, and where certain legal rights adhere to both childhood and parenthood. Child of the parent. But there are also informal relationships. And we do know that there are a number of cultures inside the United States and outside of it where formal marriage is not so much the pattern but any variety of liaisons exist.

[30] Now, when you take figures like this it must be clear that there are concepts of wedlock and maybe we ought to know the extended figure where they are operative that do not fall within the bounds of the legal concept of marriage, of legitimacy, if you want to call it that.

However, we do know that there has been a long history in the development of man, history of man, of effort at imposing one set of values or morals or behaviors on another group. And it would appear from the figures that you give on the black group, and which I suspect are probably three or four times higher than similar figures for whites, it is clear that you are dealing with a different culture here.

And to try to impose the same standard on both cultures, now, I think, is not only incorrect but discriminatory.

Third, part of the phenomenon we are dealing with has less to do with ethnicity than it has to do with economic status. Certainly Kinsey data, Masters and Johnson data, most of the data coming out of sex research, show that the attitudes towards sexuality, sexual expression and childbearing differ across [31] economic groups, with our lower economic groups—with no regard for ethnicity—our lower economic groups being less formal about the family basis for child rearing than are our more affluent groups.

So we have a kind of three-way discrimination here. We have one that does not give adequate regard to the differences in culture, one that does not give adequate regard to the higher incidences of certain behaviors and certain groups, and we have the fact of not giving adequate recognition to developmental patterns of behavior across economic groups.

Given these kind of figures it would seem to me that this kind of reasoning is discriminatory with respect to Blacks, with respect to low income people, and we haven't discussed, of course, in any detail, its discriminatory impact on women.

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[32] Could that or could that not be interpreted as saying that perhaps Black teachers could have or would have a different standard of teaching or that of development? A. No, I don't think we should make that conclusion. Actually, we are dealing with two issues here. One of them has to do with the impact of teachers, of school staff characteristics—that is, the social behavioral characteristics—on the development of children.

The other has to do with the validity, the equity, of a particular law.

Now, I think my testimony indicates that in my judgment and on the basis of the little bit of tangential research on this subject, we have no reason to conclude that the social behavior or alleged parental status of teachers and school staff have any effect on the academic or the moral development of children.

[33] In addition, I am suggesting that the rule, since it has no validity, in its assumed impact on the development of youngsters, the rule also is discriminatory, and it is discriminatory because it singles out particular groups and particular behaviors and treats them in a generic fashion when one should be looking at them relatively.

In this particular instance I am suggesting that in a society where a particular pattern of behavior is the norm, to rule that pattern of behavior out as illegal, unacceptable, discriminates against the cultural group that practices that behavior.

Q. Now, one last question, and I would be derelict, remiss and negligent if I didn't take the opportunity to question you from a minister's perspective, since we are fortunate enough to have you as a dual expert.

You have also testified that you for a number of years have been actively involved in the Presbyterian Church, and you are an ordained minister. A. Correct.

Q. Could you give me a clergyman's perspective [34] on this particular rule and particularly in terms of the morality of it, and how you would look at it. A. Well, as a professor and a psychologist and a minister I am convinced that judgments about people have to be made individually. I don't believe in making judgments about groups of people, classes of people, categories of people.

If I were in the responsible position here, I think I would want to look at the circumstances involved in each of the individuals about whom I had to make judgments about any aspect of their qualifications.

So that my first response is to make this plea for looking at individuals in the context of their circumstances and making definitive judgments about them.

On the broader issue though, I think, as a minister, I would have to take the position that the fact of parenthood ought to be judged on the basis of the manner in which that parenthood is demonstrated, is executed.

If I'm dealing with a person who is a responsible parent, I think that that is more important than the issue of the circumstance under which parenthood [35] developed.

So that if I were counseling my flock I would be—I would disregard the source of parenthood and would place my emphasis on the manner in which parenthood is discharged.

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